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2 REGIONAL RESOURCE STEWARDSHIP COUNCIL MEETING

3 MARCH 17, 2005  
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9 LOCATION:

10 TENNESSEE VALLEY AUTHORITY  
11 400 WEST SUMMIT HILL DRIVE  
12 KNOXVILLE, TENNESSEE 37902  
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3 MR. DAVE WAHUS (FACILITATOR)

4 MR. BRUCE SHUPP (COUNCIL CHAIR)

5 MR. TOM VORHOLT

6 MR. JIM JARED

7 MR. BILL FORSYTH

8 MR. TOM LITTLEPAGE

9 MR. KENNETH RAY DARNELL

10 MS. MILES MENNELL

11 MR. JOE SATTERFIELD

12 MR. PHIL COMER

13 MR. TOMMY ED ROBERTS

14 MR. BILL TITTLE

15 MR. GREER TIDWELL, JR.

16 MS. ROSEMARY WILLIAMS

17 MR. JIMMY BARNETT

18 MR. MIKE BUTLER

19 MR. AUSTIN CARROLL

20 MR. JIM FYKE

21 MS. JACKIE SHELTON

22 MR. W. C. NELSON, JR.

23 MR. KARL DUDLEY

24

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TENNESSEE VALLEY AUTHORITY REPRESENTATIVE

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KATE JACKSON, Ph.D.

EXECUTIVE VICE PRESIDENT

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TENNESSEE VALLEY AUTHORITY

DESIGNATED FEDERAL OFFICER

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400 WEST SUMMIT HILL DRIVE, WT11A-K

KNOXVILLE, TENNESSEE 37902

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P R O C E E D I N G S

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CHAIRMAN BRUCE SHUPP: Let's begin  
this morning's session. Dave, any administrative  
announcements before we start deliberation on the  
questions?

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FACILITATOR DAVE WAHUS: I don't have  
any, Bruce.

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9

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CHAIRMAN BRUCE SHUPP: Kate, any  
administrative housekeeping announcements before we  
get started?

11

DR. KATE JACKSON: No, sir.

12

13

CHAIRMAN BRUCE SHUPP: Okay. David,  
begin the questions.

14

15

FACILITATOR DAVE WAHUS: Would you  
scroll up to No. 3, please?

16

17

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Okay. Good morning and Happy St.  
Patrick's Day. I see we have a couple of people that  
are wearing of the green and it's wonderful. Some of  
us didn't plan ahead well enough to wear the green,  
but we're glad you're representing --

21

DR. KATE JACKSON: I could loan you a

22 skirt.

23 FACILITATOR DAVE WAHUS: You could  
24 loan me a skirt, thank you, you're very kind. I  
25 can't thank you enough.

322

1 DR. KATE JACKSON: A kilt.

2 FACILITATOR DAVE WAHUS: So let's  
3 review as to what we did yesterday for just a minute.  
4 We started looking at the question No. 1 and 2, and  
5 you decided as a group that maybe we should leave  
6 those and we will come back to them because they were  
7 kind of overarching over the rest of the questions.

8 So we went on to question No. 3.  
9 There was a great deal of discussion. Some of it  
10 applied to question No. 3 and some of it applied to  
11 question No. 4 and -- but let me review what you said  
12 or what we captured on there, and then we will talk  
13 about where we go from here and what our next step  
14 is.

15 The question that we talked about was  
16 the draft criteria addresses -- before I do that,  
17 because of a discussion that we had -- that I had  
18 this morning before we started, just to clarify, when  
19 we use the word category, we're talking about the  
20 categories of public interest, land use and

21 financial, those are the categories.

22 And then the numbered items that are  
23 under public use or public interest, I should say, 1,  
24 2 -- 1 through 6, those are categories, I'm sorry,  
25 those are criteria. I am confused. So we have  
1 categories and we have criteria. So as we talk about <sup>323</sup>  
2 the difference, we need to stay on the same track.

3 CHAIRMAN BRUCE SHUPP: Kate just  
4 reminded me, Dave, that Jim Fyke was here for the  
5 indoctrination session on Tuesday, he had to leave us  
6 yesterday, he came back at dinner, but he's here for  
7 today's session.

8 So, Jim, why don't you introduce  
9 yourself?

10 MR. JIM FYKE: I'm Jim Fyke with --  
11 Deputy Commissioner for the State of Tennessee,  
12 environment and conservation in charge of parks and  
13 conservation.

14 CHAIRMAN BRUCE SHUPP: Thank you.

15 FACILITATOR DAVE WAHUS: Okay.

16 Anything else? Okay. Thank you.

17 So we have categories and we have  
18 criteria. The draft criteria interest are to address  
19 public interest, land use and financial

20 considerations. Do the proposed criteria adequately  
21 address these considerations?

22 And some of your responses were, and I  
23 am not going to read it word-for-word, but we will go  
24 on down, does not include land use or land with use  
25 restrictions. For example, the ROS means -- changes  
1 mean owners have access to more land, includes only<sup>324</sup>  
2 fee simple land. The point, if I remember the  
3 discussion there, we're not talking about land to  
4 which you have easements. We're just talking about  
5 the land that TVA has fee simple title to.

6 Environmental criteria should be  
7 spelled out in greater detail, and then later someone  
8 commented that we should be -- we should make it  
9 clear there that the NEPA process will cover all the  
10 environmental issues.

11 Are there use restrictions for  
12 maintain and gain?

13 After land is traded are there  
14 restrictions to types of use, i.e., et cetera?

15 TVA can sell land with existing deed  
16 restrictions, a comment that was made, and that  
17 relates to No. 13, criteria No. 13.

18 Financial guidelines, criteria No. 22,

19 the buyer has to show that they can provide the same  
20 levels of benefits as the initiating party. And what  
21 we're talking about here after -- if there is an  
22 exception, and they go through the entire process,  
23 when they get to the point where TVA is getting ready  
24 to auction the land, if someone other than the person  
25 initiating the review actually purchases the land,  
1 then the purchaser -- the other party, the second 325  
2 party has to show that they have the ability to  
3 provide the same level of benefits that the  
4 initiating party had before the sale would be  
5 concluded.

6 The need to consider exchange of lands  
7 across different parts of the Valley. There was a  
8 question on that whether you could trade lands around  
9 one reservoir for lands around another reservoir.

10 Impacts of runoff should be added to  
11 the criteria for land use guidelines. And again,  
12 there was some discussion there as to whether that  
13 should be added or whether that would be already  
14 covered under NEPA, but it's there and we will leave  
15 it.

16 And then referred there to criteria  
17 No. 3. Clarify No. 3 and encourage that these

18 practices be carried out. Criteria No. 3 is the  
19 degree to which a proposal includes local impact  
20 development practices. For example, Audubon  
21 certified golf courses, wetland protection and/or  
22 shoreline buffers, and the requesting party has the  
23 ability to implement such practice. So encourage  
24 that these practices be carried -- a little bit  
25 stronger statement in there to encourage that that  
1 happen. 326

2 The applicant for change in land use  
3 should be required to vet the project locally first  
4 to a certain local opinion before subjecting the  
5 proposal -- before submitting the proposal to TVA,  
6 that's -- I'm sorry about the slip. Subjecting was  
7 not the right word. I apologize for that. And there  
8 was discussion as to whether TVA could actually  
9 require that.

10 But going on to No. 5, see No. 5,  
11 which is regional or multi county and local support,  
12 does the project have regional, multi county and  
13 local support? Require integration of regional and  
14 local entities.

15 Going on, if a local land use or  
16 zoning plan is not in place, TVA should not entertain

17 a proposal for off-cycle changes and have an  
18 exception policy for specific requests that  
19 definitely should be considered.

20 And there was some discussion as to  
21 whether -- 1, whether TVA could require that; and No.  
22 2, I believe there was a discussion in what I heard  
23 yesterday, and correct me if I am wrong, but there  
24 are an awful lot of rural communities and counties  
25 and other -- or throughout the Valley that do not  
1 have any zoning or land use plans in place and that 327  
2 could create an issue.

3 Criteria are subjective. Do we really  
4 need criteria for off-cycle changes? That was a  
5 question that was raised, and it wasn't answered, but  
6 the question was raised.

7 Entertaining requests for off-cycle  
8 changes could open a Pandora's box for additional  
9 requests and set dangerous precedence. Can these  
10 criteria be clustered under guiding principles?

11 And it was about five minutes to 5:00  
12 when we ended at that point and there was -- I think  
13 you were -- we were all running out of gas a little  
14 bit, but now we have been reenergized.

15 So I would ask, is there anything here

16       that you want to go back and revisit that you  
17       discussed yesterday?

18                   Are there any additional questions or  
19       any additional items that you would like to add or  
20       any discussion you would like to have in response to  
21       question No. 3?

22                   Do you-all still have question No. 3  
23       in front of you?

24                   And I would like to ask one more  
25       question, as far as the guidelines for initiating  
1       review of off-cycle changes, I hope tomorrow -- 328  
2       yesterday wasn't the first time you saw this list.  
3       Maybe it was the first time you saw it with numbers  
4       on the side, but you did see it in advance, right?

5                   I know I got a copy of it in advance.  
6       So I hope you-all had an opportunity to look at it  
7       and think about it in advance.

8                   Any further discussion on question No.  
9       3?

10                   Kenneth.

11                   MR. KENNETH DARNELL: I just have a  
12       question of clarification for Bridgette. What  
13       reservoir or what area are the most requests coming  
14       from?

15 MS. BRIDGETTE ELLIS: There's not any  
16 specific area. I mean, I think when you look at --  
17 there's clusters around the Valley where there are  
18 specific things. We're seeing a lot in the mountain  
19 reservoirs now because of some of the infrastructure  
20 that's going on there and seeing things on the main  
21 stream -- main stem reservoirs. So there's not a  
22 pocket of -- I mean, I think it's -- it's wide  
23 spread.

24 MR. KENNETH DARNELL: Valley wide.

25 FACILITATOR DAVE WAHUS: Austin.

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1 MR. AUSTIN CARROLL: What are the  
2 cycles?

3 MS. BRIDGETTE ELLIS: What are the --  
4 we try to review all the plans every ten years. We  
5 don't always get that, but that's -- that's our goal,  
6 is to try to review every plan every ten years.

7 MR. AUSTIN CARROLL: Okay.

8 MS. BRIDGETTE ELLIS: And you may  
9 review it sooner. You know, if you are getting a lot  
10 of requests for off-cycles, then that means maybe you  
11 need to go and look and see what your allocations  
12 are, if they are truly reflecting the public values.

13 MR. AUSTIN CARROLL: So it's not set.

14 FACILITATOR DAVE WAHUS: Mike.

15 MR. MIKE BUTLER: Let me ask a  
16 question of Bridgette and Kate. If requests got to  
17 the point where you did go to a five-year cycle, do  
18 you think it would be a more efficient process to  
19 have a set of guidelines that had maybe been publicly  
20 vetted through an overall NEPA policy like SMI or our  
21 management initiative previously or to go to a  
22 five-year replanning process on the reservoirs?

23 DR. KATE JACKSON: I guess I struggle  
24 with how your concept of an SMI like process would  
25 help because each reservoir is so different. I also  
1 struggle with thinking about the ratepayers funding a<sup>330</sup>  
2 reservoir plan every five years, especially on  
3 reservoirs where things don't change, development  
4 pressures don't -- aren't driving that kind of an  
5 investment by the ratepayers, but I think that's a --  
6 you know, that's certainly appropriate advice if you  
7 want to give us that, to go back and examine what the  
8 cost implications might be of that.

9 FACILITATOR DAVE WAHUS: Miles.

10 MS. MILES MENNELL: From a practical  
11 standpoint, Bridgette, given that you review or your  
12 goal is to review every ten years, but, for example,

13 if a request comes through, you can review anytime in  
14 that ten-year period? That's just your objective.

15 MS. BRIDGETTE ELLIS: Yes.

16 MS. MILES MENNELL: But there's no  
17 minimum amount of time a plan has to be in place.  
18 Like, say, somebody wants to put a marina on the lake  
19 and there's lots and lots of pressure, it would seem  
20 to me that practically you could say, no, we're not  
21 ready to review this plan yet, but at the same time  
22 you could choose to, it could go either way.

23 MS. BRIDGETTE ELLIS: Well, that's  
24 what this criteria is about. If you have a plan in  
25 place and you have tracts that are allocated for  
1 recreation, which is where a marina would most 331  
2 appropriately go, however, they want to go on a tract  
3 that's been tagged for conservation, would you then  
4 initiate that review under this criteria or would you  
5 wait until you --

6 MS. MILES MENNELL: And say, no, the  
7 criteria mandates that we wait X amount of time.

8 MS. BRIDGETTE ELLIS: Either waits or  
9 says it's incompatible or -- and, you know, that's  
10 what we're asking you-all to think through.

11 MS. MILES MENNELL: I just wanted to

12 clarify that.

13 DR. KATE JACKSON: And I guess one of  
14 the things to have in your mind is, if you got a  
15 request for some relatively large development that is  
16 not compatible which would drive one of these  
17 off-cycle, it's not a satisfactory response typically  
18 to say, well, you know, here's what we will do. We  
19 will do a reservoir plan and come back and see us in  
20 two years and we will tell you whether the public  
21 thought it was a good idea to change the allocation.

22 So, you know, I mean, as you're  
23 thinking about the process, keep that in your minds.  
24 I mean, if you do have a good development  
25 opportunity, do you want to lose that because of the  
1 bureaucracy? I mean, that's the balance that we want<sup>332</sup>  
2 you to wrestle with.

3 FACILITATOR DAVE WAHUS: Phil.

4 MR. PHIL COMER: Bridgette, this is  
5 just for clarification. As you may or may not know,  
6 I am working right now with City of Dandridge and am  
7 working with Laurie Pearl on a 26-acre piece of land  
8 that Dandridge hopes to be -- have returned either in  
9 some fashion by fee simple or by lease agreement for  
10 development as a campground. Now, that's within

11 existing okay. I mean, this isn't a piece of land --  
12 I mean, the piece of land has been approved by  
13 you-all for that purpose.

14 MS. BRIDGETTE ELLIS: We don't have a  
15 plan on Douglas, but that is an existing use,  
16 correct?

17 MR. PHIL COMER: Yes.

18 MS. BRIDGETTE ELLIS: In other words,  
19 they have been using it under a -- it had been used  
20 under a license agreement, I believe?

21 MR. PHIL COMER: It's very peculiar.  
22 In 1961 TVA deeded this piece of land to Dandridge.  
23 In 1977 Dandridge was having a problem policing drug  
24 trafficking on the property. So they deeded it back  
25 to TVA.

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1 Now they have a developer The Point  
2 who want to develop a campground there. So all of a  
3 sudden they want it back. Well, I don't think it  
4 matters from my observation whether it comes back to  
5 them in fee simple or whether just gives them a  
6 permit for that specific use, but I haven't detected  
7 any -- that this has to wait five years or anything  
8 like that. I mean, it can proceed as an application.

9 MS. BRIDGETTE ELLIS: Yes.

10 MR. PHIL COMER: Because Laura has  
11 said for that use it's okay to --

12 MS. BRIDGETTE ELLIS: Because that was  
13 the intended use and that's what it had been used  
14 for.

15 MR. PHIL COMER: That's the impression  
16 I had. That's what I thought.

17 MS. BRIDGETTE ELLIS: It's not like  
18 you're taking another piece of property that's never  
19 been developed.

20 FACILITATOR DAVE WAHUS: Austin.

21 MR. AUSTIN CARROLL: This is a little  
22 bit off the subject, but you mentioned the cost to  
23 the ratepayers of doing these plans and so forth.

24 Up until a few years ago TVA got  
25 anywhere from 50 to \$100 million from the federal  
1 government and congress to pay for these kind of 334  
2 things, the resource management aspects of TVA, which  
3 are -- in other areas are paid for through federal  
4 appropriations and to the Corps of Engineers and  
5 those kind of things.

6 Is there anything that has changed?  
7 Is TVA asking for that money? Do we see a crack in  
8 the door where we might get that kind of money back

9 from Congress or begin getting it again?

10 DR. KATE JACKSON: No.

11 MR. AUSTIN CARROLL: Would you want to  
12 elaborate on that?

13 DR. KATE JACKSON: Our perspective is  
14 the things that TVA does generally, like the land use  
15 and the 26(a) permitting, the cost for going out  
16 there and permitting docks is very similar to the  
17 costs that an investor-owned utility has for similar  
18 things.

19 The majority of the difference is  
20 navigation, to some extent some safety activities for  
21 the non-powered projects and some of the water  
22 quality work. I mean, we have done a lot of  
23 benchmarking that suggests that there isn't a whole  
24 lot of difference, other than scale and scope of  
25 mission based responsibilities, but not costing a lot  
1 of money. 335

2 And when you compare that with the  
3 opportunity that we have for the broad mandate to  
4 move the water in the most efficient means, I mean,  
5 if you would contemplate having another river manager  
6 like the Corps of Engineers manage the river, they're  
7 probably not going to be willing to get as close to

8 the edge on flood control as we do because of the  
9 kind of sophisticated data that we have in running  
10 that system and they would probably not be willing  
11 to, when we call them up, release a cold slug of  
12 water to get it to Watts Bar or Browns Ferry or one  
13 of the fossil plants.

14 Therefore, the benefit to the  
15 ratepayer probably, we believe, significantly  
16 outweighs the expenditure. So if you would  
17 contemplate going back into that relatively exposed  
18 appropriation process, you might not get what you  
19 want.

20 FACILITATOR DAVE WAHUS: Mike.

21 MR. MIKE BUTLER: Just a follow-up  
22 question, and this is just curiosity's sake, how does  
23 that same -- the benchmarking between private  
24 investor owned utilities and TVA, do they spend -- do  
25 they have economic development divisions similarly to  
1 TVA? 336

2 Do they spend comparable amounts of  
3 money on the same type of process?

4 DR. KATE JACKSON: They do have  
5 economic development, industrial recruitment,  
6 minority loan programs very similar to what TVA has.

7 I cannot tell you that they spend the same amount of  
8 money. An investor-owned utility would not tell you  
9 that, but they obviously do similar recruitment kinds  
10 of activities that TVA does.

11 FACILITATOR DAVE WAHUS: Bill.

12 MR. BILL FORSYTH: I work some with  
13 investor-owned utilities, as well as TVA because of  
14 the area -- I work in economic development, and my  
15 sense is they don't come anywhere near what TVA  
16 spends in economic development.

17 FACILITATOR DAVE WAHUS: Okay. I  
18 haven't heard any other discussion on question No. 3.  
19 So let's go to question No. 4.

20 Are there other categories that should  
21 be addressed? If so, what criteria would be included  
22 in these categories?

23 Now, keeping in mind that the  
24 categories are public interest, land use and  
25 financial consideration, those are the three  
1 categories.

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2 Are there any other categories that  
3 should be addressed? If so, what would they be?

4 Miles.

5 MS. MILES MENNELL: I just have a

6 bottom line question. I want to be sure I understood  
7 what Kate and Bridgette were saying.

8 The heart of the issue is obviously  
9 there has to be guidelines for public lands, I  
10 understand that, but when it comes to the plan, the  
11 real question is, how much flexibility do we need to  
12 have, right?

13 So that's really the heart of the  
14 question. Do we have the guidelines or do we leave  
15 it wide open?

16 And then if we have the guidelines,  
17 how rigid do they need to be? What are the  
18 exceptions going to be?

19 It seems to me, if I understood you  
20 correctly, that that's the real crux of the issue.

21 DR. KATE JACKSON: Yeah. I mean,  
22 these would be a commitment that we would make to the  
23 stakeholders in the region, publicize widely to  
24 interested parties that make land use requests about  
25 if we're going to do off-cycle changes to

1 allocations, that this is the test we would use to  
2 even determine whether or not we would review those.

3 And then once you determine that, all of the other  
4 rules apply, NEPA, endangered species.

5 FACILITATOR DAVE WAHUS: Any other  
6 consideration? Any other categories that we need to  
7 be addressing?

8 Mike.

9 MR. MIKE BUTLER: Just one comment to  
10 Miles' point. I think it's important to consider --  
11 I'm not going to go into this in detail, but while  
12 that is obviously TVA's basis of the issue, it is  
13 definitely not the basis of the issue from what  
14 the -- the calls that I get and all the input that we  
15 get in our office.

16 The basis of the issue there is more  
17 of -- is squarely placed on the public interest. And  
18 I'm not saying that it's not at TVA, I'm just saying  
19 that they're talking about a management situation.  
20 The majority of the public that we get contacted by  
21 is talking much more about a fundamental principle in  
22 their mind just from their perspective.

23 MR. GREER TIDWELL: Can you elaborate  
24 on what that principle is?

25 MR. MIKE BUTLER: Well, it varies. 339  
1 And it's on a spectrum, it's not one thing. I mean,  
2 you hear things all the way from the argument that  
3 Bridgette raised yesterday, that properties taken by

4     eminent domain for public interest use, they don't  
5     have the same view as many of us around this table,  
6     that selling that at auction to a developer provides  
7     a public use, they don't have it because they see --  
8     like the example I gave on Watts Bar, the 9,000 acres  
9     of subdivisions going in around Watts Bar on private  
10    property is being more than adequate economic  
11    development from their perspective. I want to make  
12    that clear, that I don't extrapolate that to anybody  
13    else. I think that on one end of the spectrum.

14                   Then on the other end of that spectrum  
15    is kind of the idea that's captured in these  
16    guidelines of a mitigative process, a mitigative  
17    process that goes through. So I think that is  
18    where -- that is where we have a problem with public  
19    trust on this issue, is the difference in perception  
20    on what the issue is and what the important issue is.

21                   And I understand and respect the fact  
22    that if I was sitting in your shoes it would be, how  
23    do you manage these 30 to 35 requests that are coming  
24    in on a day-to-day basis, but there's a fundamental  
25    difference in the lens that these people are looking  
1     at. 340

2                   I think if that doesn't get addressed,

3 then the issue is not going to get solved. It will  
4 be back either in our laps to make further  
5 recommendations down the line or some other approach.

6 FACILITATOR DAVE WAHUS: Miles, you  
7 had a comment.

8 MS. MILES MENNELL: No. I appreciate  
9 your clarification. So what we're looking for  
10 obviously is a compromise or do we have to  
11 compromise?

12 MR. MIKE BUTLER: Well, that's an  
13 opinion question.

14 MS. MILES MENNELL: I know. But the  
15 whole thing is an opinion question. It's an  
16 impossible situation actually.

17 MR. MIKE BUTLER: I think these  
18 guidelines go a long way to getting at a solution. I  
19 think -- and I don't want to simplify this, but to my  
20 mind, public vetting of those -- of that process, of  
21 going through that, and I don't want to beat a dead  
22 horse from yesterday, but I think that's a key  
23 component of gaining at least -- maybe not a stamp of  
24 approval but a thing that, hey, our interests are  
25 actually being paid attention to.

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1 FACILITATOR DAVE WAHUS: Greer.

2 MR. GREER TIDWELL: It seems to me one  
3 of the essential issues on the land use guidelines is  
4 whether -- well, do we think it's appropriate for TVA  
5 to take these off-schedule requests for private or  
6 any other land use changes on a maintain-or-gain  
7 basis versus a gain basis?

8 To follow up on Mike's comment about  
9 the mitigation question, rooted in the concern that  
10 eminent domain was used to take personal and private  
11 property away and is now seen as being given over to  
12 some other personal private developer perhaps, it  
13 seems to me like this is an appropriate point to  
14 think about whether maintaining the public value is  
15 enough of a standard, especially in these off-cycle  
16 situations, or whether the standard should be, you  
17 get more public value than the original plan that's  
18 being -- you know, that's being modified for some  
19 particular project.

20 DR. KATE JACKSON: And let me clarify,  
21 and I think that point -- that's a good point, but  
22 let's clarify, right now we do have a requirement  
23 even to maintain.

24 MR. GREER TIDWELL: Right.

25 DR. KATE JACKSON: But based on the

1 input that we have gotten, several of the most recent  
2 cases we have added that in response to the comments  
3 that we have gotten from folks in the Valley. So  
4 that's something -- a good point for you to wrestle  
5 sell around.

6 FACILITATOR DAVE WAHUS: Bill and then  
7 Jimmy.

8 MR. BILL TITTLE: Bridgette, I wonder  
9 how much participation you get from local planning  
10 agencies or local governments when you do these  
11 ten-year plans, and you have already said it varies  
12 depending on the level of sophistication of a  
13 county's planning capabilities, but do you get good  
14 participation generally?

15 MS. BRIDGETTE ELLIS: Yes, I think we  
16 do. And I think as a part of some of the  
17 recommendations of this Council previously on public  
18 involvement, that was one of the things that this  
19 Council said is that you need to get local entities  
20 more involved so that you can understand what those  
21 public values are of the local counties, city  
22 officials and things like that.

23 So when we started the update of the  
24 Watts Bar plan, we specifically sat down with all of

25 county officials and talked to all of the city  
1 municipalities and things like that to say, hey,  
2 we're getting ready to start this and we want to  
3 understand how these lands play into your future  
4 needs versus, you know, what types of recreation  
5 needs do you think you have in the future and do  
6 these lands play a role in that, and that kind of  
7 thing? So I think we are starting to do a better job  
8 of bringing the officials into that.

9 MR. BILL TITTLE: Because if this plan  
10 for each reservoir dovetails with those plans, that  
11 could help a little bit to alleviate some of these  
12 requests maybe.

13 The second part of my question is: Do  
14 the requests coming in on off-cycle requests, are  
15 they normally embraced by local governments or  
16 planning committees?

17 MS. BRIDGETTE ELLIS: That varies.  
18 That varies from county to county and municipality to  
19 municipality.

20 DR. KATE JACKSON: And during the  
21 requests, I mean, often the elected officials might  
22 very much for a particular request until the public  
23 comes out very much against that request.

24 FACILITATOR DAVE WAHUS: Jimmy.

25 MR. JIMMY BARNETT: Greer made a real 344  
1 interesting point. If you took my property by  
2 eminent domain and we had just a maintain or gain and  
3 you gave it to my good friend Mike here on a  
4 maintain, I'm going to be mad. I don't care if you  
5 came out even-Steven. I'd probably be mad if you  
6 took it anyway.

7 I would be even worse just on a  
8 maintain situation because you have taken it from me  
9 and you have given it to him and you haven't gained  
10 anything by doing that, other than to make me  
11 furious. So I have got a problem with just the  
12 maintain part.

13 Gaining, now, I can understand that.  
14 The public entity, which is TVA and its publics,  
15 gains from a transaction with me, you know, I have  
16 already had everything I have had to say and that's  
17 nine, but if it's just an even-Steven, I don't think  
18 it's right to transfer something that was mine in fee  
19 simple or any other kind of way and just give it to  
20 him and not get anything out of it, and that's just  
21 because you want to.

22 I'm grossly simplifying things because

23     you took it for a reason or you wouldn't be able to  
24     get it through the processes, but you needed it for  
25     something and all of a sudden you didn't need it. 345  
1     You were going to build a nuclear plant and decided,  
2     no, let's don't do that, and then you are going to do  
3     something and give him the property on the same  
4     even-steven, no, I don't agree with that. That's  
5     just me as a human being, I would not like that at  
6     all.

7                     FACILITATOR DAVE WAHUS:   Joe.

8                     MR. JOE SATTERFIELD:   Just a follow-up  
9     question on Greer's and Jimmy's idea there. Do we  
10    have any idea how much of TVA property is -- was  
11    taken by eminent domain?

12                    MS. BRIDGETTE ELLIS:   No.

13                    MR. JOE SATTERFIELD:   Can you identify  
14    tracts that were and weren't?

15                    MS. BRIDGETTE ELLIS:   Yes. We could  
16    specifically go back to the acquisitions and say, you  
17    know, which were voluntary and which were by eminent  
18    domain, but I think you get into some subjective  
19    information there simply because if I am sitting  
20    there and I know that my farm is going to be  
21    inundated, do I sit there and wait for eminent domain

22 or do I voluntarily take it? So I am not so sure  
23 it's good information.

24 MR. JOE SATTERFIELD: Jimmy, I guess  
25 most of these people that it was taken from are dead  
1 now. 346

2 DR. KATE JACKSON: Their children  
3 aren't.

4 MS. BRIDGETTE ELLIS: I would say  
5 their decedents are alive and well.

6 DR. KATE JACKSON: You know, I don't  
7 want to appear defensive, but I -- this may sound  
8 definitive. First of all, we're not going to give it  
9 to Mike. We're going to sell it at fair market  
10 values probably for significantly more than we  
11 purchased it for, which may make you angry on a whole  
12 other front.

13 And then also remember that we have a  
14 mandate from Congress to -- originally to get this  
15 property for all the reasons we have it and to  
16 provide for any social and economic welfare of the  
17 public in the region, and in some cases that means  
18 what -- I mean, what government does is shift wealth,  
19 and I totally get the issues associated with that and  
20 I am not minimizing them at all.

21                   We actually probably do not have the  
22   authority to go back and find those people, and even  
23   if you did have that authority, which we don't, we  
24   couldn't do it. I mean, many of them live in  
25   different countries. They've moved away. They have  
1   grandchildren who -- I mean, the concept of that -- I<sup>347</sup>  
2   mean, I would rather not have you wrestle with that  
3   issue.

4                   If what you want to do in response is  
5   say, because of this we don't think you ever ought to  
6   transfer any land to anyone, give me that advice, but  
7   don't tell me, you know, don't use eminent domain and  
8   then don't do economic development, I mean, that  
9   doesn't help me because what you're saying is let me  
10   rewrite the TVA Act, and that's probably going to be  
11   difficult for this group.

12                   FACILITATOR DAVE WAHUS: Phil. Ken.  
13   Jim.

14                   MR. PHIL COMER: I wanted to respond  
15   to Jimmy's comments and in context with what Kate had  
16   just said.

17                   In certain specific cases, and  
18   specifically the Tellico Dam and the Tellico area,  
19   that's one that is still often in contention in the

20 mind of the children and grandchildren of the people  
21 whose land was taken by eminent domain, but if you go  
22 back and study the -- TVA's position on Tellico,  
23 Tellico Dam, Tellico Lake impoundment, at the time it  
24 was largely justified on the grounds of future  
25 economic development for that region, and it was  
1 clearly, clearly the intent of TVA when they acquired 348  
2 more land than was -- had been customary on other  
3 impoundments for future economic development. I  
4 mean, that was its purpose.

5 That was how it was finally marginally  
6 justified was to later resell the land that was --  
7 much of which was taken by eminent domain to  
8 industrial plants as has developed around Vonore and  
9 Monroe County and so forth, that was part of the plan  
10 to start with, that was part of the justification,  
11 and I think most of the local people that I talked to  
12 around Monroe County, the children and grandchildren,  
13 they don't remember that at all.

14 DR. KATE JACKSON: Well, they don't  
15 like it.

16 MR. PHIL COMER: That's right. And  
17 they are bitter to this day about that. I mean, it's  
18 unbelievable to me to talk to the grandchildren there

19     who are just as bitter, and they should let us have  
20     the land back is their attitude, which is never the  
21     intent, was never the publicized intent of TVA to  
22     start with.

23                     And so I -- whether it's -- and as  
24     Kate says, they don't give it or sell it at exactly  
25     what they paid for it, but the real gain is not to  
1     TVA, the real gain is to the community and the tax <sup>349</sup>  
2     base and the employment of people in Monroe County.  
3     I mean, that's the big gain, which is not directly  
4     per se for TVA.

5                     So I don't agree with you, Jimmy, that  
6     if -- that TVA, if they sold it for exactly what they  
7     had paid for it, which they don't, it would still to  
8     me be okay because it's certainly benefitting the  
9     people, the citizens who are gaining employment and  
10    the tax base that goes up for that whole region.

11                    And the similar thing can be said for  
12    all the reservations around the reservoirs, but in  
13    the case of Tellico it explicitly was the purpose. I  
14    mean, they even named the town -- Timber Lake was to  
15    be the name of the town. I mean, that was highly  
16    publicized and highly controversial for years at the  
17    time.

18                   The local people forget that. They  
19    seem to think that TVA is supposed to be like the  
20    National Forest Service or the National Park Service  
21    and it isn't and never has been.

22                   MR. BILL TITTLE: I want her to go  
23    with you when you go up there the next time.

24                   MR. PHIL COMER: I would love for her  
25    to.

1                   FACILITATOR DAVE WAHUS: Kenneth. 350

2                   MR. KENNETH DARNELL: The draft plan  
3    that we have before us, I think, deals with all of  
4    the issues that protect the public, and I think you  
5    have done a good job of drafting that plan and the  
6    criteria in that plan does adequately protect public  
7    interest.

8                   As far as question No. 4, I would  
9    suggest that you add a fourth category, and that  
10   would be something to protect TVA's interest, because  
11   what's coming out here is although a project may be  
12   good economically and make good sense for  
13   development, it may not give TVA the best deal as far  
14   as public perception. And public perception, as we  
15   know, is the key to getting things done.

16                   I think we saw that quite graphically

17 in Kentucky when the public perception went against  
18 TVA on the LBL, and it goes back to the eminent  
19 domain questions, to the people that the land was  
20 bought from.

21 So that's my suggestion, in the fourth  
22 category, something that would look after TVA's  
23 interest and would give you an escape hatch, because  
24 the other criteria are subjective to the point that  
25 whoever is in charge of TVA at the time can interpret  
1 those to their own needs, but if you had a clause 351  
2 where, you know, one of the controlling factors would  
3 be, does this promote TVA in the best light to the  
4 public --

5 MR. PHIL COMER: Who cares? Pardon  
6 me.

7 FACILITATOR DAVE WAHUS: Let me ask  
8 you, if we add that as a category, then do you have  
9 any criteria by which they use to evaluate whether  
10 the proposed action met TVA's criteria?

11 MR. KENNETH DARNELL: This is going to  
12 be necessarily broad, but would this action foster  
13 good public relations with the TVA or continued good  
14 public relations with TVA?

15 FACILITATOR DAVE WAHUS: Okay. No,

16     you're going to wait your turn, Phil, sorry, so at  
17     least we'll get some discussion going on here.

18                     Jim.

19                     MR. JIM FYKE: I just have a question  
20     about process. I hate to use that word. I have been  
21     gripping about it for two years now.

22                     Back to the eminent domain question,  
23     if land is taken by eminent domain for a purpose,  
24     what process, what approval or what allows the  
25     changing of the purpose from the original purpose of  
1     why it was taken? 352

2                     What type of, I guess, procedure or  
3     process and who has to approve the change of use or  
4     potential use for property taken for another specific  
5     reason? Through the planning process or through the  
6     years you change your mind, how does that work? I'm  
7     not sure --

8                     DR. KATE JACKSON: I mean, that  
9     process is why you heard the Chairman yesterday say  
10    the Board has never delegated the responsibility on  
11    land actions. I mean, the Board of Directors  
12    approves those use changes, those allocation changes.

13                     So if you have one of these off-cycle  
14    request on a place where there's a reservoir land

15 plan and it's allocated for this and it needs to be  
16 used for something different to accommodate that  
17 request, the Board essentially has two approvals.  
18 One is to change the allocation of that land, and  
19 then the other is to approve the sale of it, if you  
20 will.

21 MR. JIM FYKE: Based on  
22 recommendations from the staff, I assume?

23 DR. KATE JACKSON: Uh-huh.

24 MR. JIM FYKE: So you-all plus and  
25 minus the change of the original use potential, I  
1 guess, is what I am trying to ask? 353

2 FACILITATOR DAVE WAHUS: Keep in mind,  
3 Jim wasn't with us yesterday, so he didn't hear the  
4 Chairman and wasn't -- hasn't been able to benefit  
5 from some of the discussions we had here yesterday.

6 MR. JIM FYKE: Sorry.

7 FACILITATOR DAVE WAHUS: That's fine.  
8 I just wanted to -- Mike.

9 MR. MIKE BUTLER: But I just wanted to  
10 go back before Kenneth made his comment to something  
11 that both Phil and Kate brought up and also -- and  
12 just raise an issue of the fact that obviously time's  
13 change. TVA used to build hydroelectric dams. They

14 are never probably ever going to build another  
15 hydroelectric dam.

16                   That being the case, I draw that to  
17 the analogy that the value and the use of these  
18 lands, I think Tellico is particularly a poor example  
19 to maybe use in this case because while it was  
20 validated and justified on the basis of economic  
21 development, the project was dead until -- everyone  
22 knows the story of how it came through and it was --  
23 it was done in a political manner, and I think that's  
24 where a lot of the resentment still rests with the  
25 local communities around there.

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1                   I guess what I'm saying is that the  
2 lands, let's say, on the eastern shore of Tellico  
3 that are largely undeveloped have changed in their  
4 value significantly since the '70s, especially to the  
5 residents on the western shore of Tellico because  
6 of -- you know, I guess what I am saying is times  
7 change, values change, and what TVA has been doing  
8 and focusing on has changed.

9                   In that sense while we have a --  
10 excuse me, while we have an authority like TVA that  
11 does have an economic development mission, that  
12 mission has to change with the times just like

13 anything else TVA does with the times.

14 And I think that when you look across  
15 that -- when you look across those thin bands of  
16 public land, their value has become vastly enhanced  
17 over the time by public perception, as well as actual  
18 value and things like that. So I don't want to  
19 belabor that point, but I just wanted to raise that  
20 issue.

21 FACILITATOR DAVE WAHUS: We're going  
22 to have three more comments and then we're going to  
23 come back to the question.

24 Greer, you're next.

25 MR. GREER TIDWELL: I just want to 355  
1 make sure and clarify that when I started this  
2 discussion about whether maintain is enough of a  
3 value for coming out, taking land out of the normal  
4 planning process is -- I'm just -- that concept sort  
5 of got responded to by Kate as if I thought we ought  
6 to rewrite the TVA Act, and that's not at all what I  
7 meant.

8 So, I mean, it's really a pretty  
9 clear-cut issue. When you look at the guidelines as  
10 they're written right now, there's a no-net loss idea  
11 in here, there's a commensurate public idea in here

12 for lands that might be swapped on the same  
13 reservoir, but then the staff has vetted this with  
14 the Board that if you're talking about swapping land  
15 from one reservoir to another, then you have got to  
16 only do that if the swap land has unique  
17 opportunities to enhance public benefits, and that's  
18 the concept I think we need to perhaps bring to any  
19 swap land that is out of sync with the current plan.

20 Let's go back to Jim's question and  
21 maybe put this into the framework a little bit. TVA  
22 does plans that have a lot of public involvement  
23 about every ten years for the land around their --  
24 the land that they own around each reservoir, and  
25 they designate different areas there, certain acreage  
1 for industrial development, certain acreage for  
2 residential development, certain acreage for  
3 conservation, and they do that about every ten years.

4 All we're really talking about here is  
5 whether they should consider proposals that are  
6 inconsistent with that plan that went through the  
7 public process, et cetera, and when should they  
8 consider those, I think, basically private proposals  
9 for private gain, although there is a public gain of  
10 economic development, and that's all we're really

11 dealing with.

12 And I think my proposal is that TVA  
13 shouldn't consider that except under a guideline that  
14 says the public gain needs to be more if you're  
15 talking about swapping, not just the same but more if  
16 it's outside that good public planning process,  
17 that's the proposal I would --

18 FACILITATOR DAVE WAHUS: So are you  
19 suggesting we should add another category or add  
20 something or strengthen No. 12? I think you were  
21 talking to category No. 12, were you not, on the  
22 second page?

23 MR. GREER TIDWELL: Well, no. I just  
24 threw it out there. It shows up in 11, 12 and 13 at  
25 least and 14.

1 FACILITATOR DAVE WAHUS: So we just <sup>357</sup>  
2 strengthen those?

3 MR. GREER TIDWELL: Actually, what I'm  
4 suggesting is something that goes at the very  
5 beginning of this.

6 FACILITATOR DAVE WAHUS: Okay. And  
7 what would you suggest?

8 MR. GREER TIDWELL: Overarching  
9 principle and that should be --

10 FACILITATOR DAVE WAHUS: So and  
11 overarching principle should be that -- help me out,  
12 that should be --

13 MR. GREER TIDWELL: In situations of  
14 off-cycle changes in allocation, mitigation or swap  
15 for enhancement should be required that has an added  
16 public benefit to the original public benefit of the  
17 land as designated in the plan.

18 FACILITATOR DAVE WAHUS: We can  
19 wordsmith it later, but we want to get the gist of  
20 it.

21 MR. GREER TIDWELL: It's pretty close  
22 to what I really meant.

23 FACILITATOR DAVE WAHUS: Very good.  
24 Help us out up here as you --

25 CHAIRMAN BRUCE SHUPP: Dave.

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1 FACILITATOR DAVE WAHUS: Yes.

2 CHAIRMAN BRUCE SHUPP: Could I suggest  
3 that this would fit under -- going back up under  
4 category 2 really, what trade-off strategies, that's  
5 the type of strategy that I thought if we discuss  
6 this whole thing we could build back up to.

7 FACILITATOR DAVE WAHUS: Under  
8 question two, not category two?

9 CHAIRMAN BRUCE SHUPP: Question two.

10 That's the kind of thing that by discussing these  
11 pieces we go back and filled the hole, and I would  
12 strengthen more, I have some ideas when we get to  
13 that point and I would like to even make it stronger.

14 FACILITATOR DAVE WAHUS: Mitigation  
15 swap changes are considered.

16 MR. GREER TIDWELL: If Bill hadn't  
17 kept me out so late last night, I might have drafted  
18 this.

19 FACILITATOR DAVE WAHUS: We all  
20 understand what Bill did to you. For mitigation swap  
21 or sale there has to be increased public use or  
22 increased public value.

23 MR. GREER TIDWELL: Benefit.

24 FACILITATOR DAVE WAHUS: Increase  
25 public value.

1 MS. BRIDGETTE ELLIS: Over and above 359  
2 the original.

3 FACILITATOR DAVE WAHUS: Over and  
4 above the original public benefit.

5 MR. GREER TIDWELL: Over and above the  
6 original parcel under the -- or under the existing  
7 plan.

8 FACILITATOR DAVE WAHUS: That's good.

9 Is that -- what we have up there, does that capture  
10 it essentially or do we need to do some wordsmithing  
11 there for you?

12 MR. GREER TIDWELL: That's got it.

13 FACILITATOR DAVE WAHUS: Phil and then  
14 Jimmy.

15 MR. PHIL COMER: I have almost  
16 forgotten what I was trying to respond to, but I  
17 think Kenneth -- okay. Are you Kenneth?

18 MR. KENNETH DARNELL: Yes.

19 MR. PHIL COMER: I think I really  
20 seriously disagree with Kenneth on what you have  
21 added up there as the first bullet. I really am not  
22 at all convinced that we should -- to add a category  
23 to protect TVA's interest. I don't see TVA as an  
24 entity that has any right to protect its image per  
25 se.

1 They are at risk. I mean, they are at  
2 risk as a public institution. They are a  
3 governmental agency, and they're constantly at risk  
4 as far as their image, their reputation and so forth.  
5 We expect them to behave perfectly, always legally  
6 and always in the best public interest, and when they

7 deviate from that we will criticize them severely and  
8 I think that just goes with the territory. I mean,  
9 that's part of what they get paid for in bonuses for.

10 If you start adding a category that  
11 they can protect their own -- the public's perception  
12 of them, I think that's wrong. That's going to lead  
13 them down to even more bad decisions than they make  
14 now.

15 They do that sort of naturally. I  
16 mean, as a human tendency they tend to do that, and  
17 when they have zillions of people who come on the  
18 door steps and they, you know, say they are putting  
19 out more Mercury than they should and so forth, they  
20 respond very self protectively to that.

21 When it comes to deciding that because  
22 land is taken by eminent domain for X purpose and now  
23 Y ten years later is the real reason, I don't  
24 think -- their own -- to protect their own public  
25 image should not be a factor that they really should  
1 consider. They should just try to do what is best 361  
2 for the greatest number of the public. They are a  
3 catalyst. They are an intermediate for that purpose.  
4 So I disagree with what he's added up there.

5 FACILITATOR DAVE WAHUS: Jim.

6 MR. JIMMY BARNETT: Okay. Initially  
7 Greer hit my hot spot when he made his comment. I  
8 would like to say that I made some comments, and I  
9 still agree with those particular comments because  
10 that's only human. You don't transfer something from  
11 me equitably over to him.

12 On the other hand, I use eminent  
13 domain myself, very rarely I assure you. And, yeah,  
14 purposes change, but if dealing with human  
15 perceptions, like the one I just expressed a few  
16 moments ago, that's something to be taken into  
17 account simply if you articulate the benefit that  
18 you're now getting for a change purpose.

19 I mean, you may be putting in a car  
20 wash or something, and if there's public benefit into  
21 that that you could articulate and at least vet it to  
22 me or vet it to my heirs or put it out there that we  
23 are doing this now because it's more benefit doing  
24 this than what was done in the past, again, the  
25 benefit picture if I can -- even with me and you  
1 transferred it to Mike and if you said, hey, this is 362  
2 more in the public good, okay, I don't really have  
3 that much problem with it, but I would like to have  
4 the money, don't get me wrong.

5                   I will make a comment along what Phil  
6   is talking about, and I am in the same kind of  
7   business and utility business. Yeah, I am at risk  
8   every day from public perception because any  
9   perceptions are the reality. And it's my problem on  
10  trying to run the utility that I run to keep my  
11  customers informed as to what I am doing and why and  
12  that's sort of CYA, Phil. I mean, you do it because  
13  that's what you need to do, because if they won't let  
14  you do it with public perception and politics, then  
15  you need to either go back or get out of the business  
16  or something else.

17                   FACILITATOR DAVE WAHUS: Jim was next.

18                   MR. JIM JARED: I just wanted to  
19  support what Phil said a few minutes ago. I think  
20  the guidelines should stay totally with the  
21  protection of the public interest and offer no  
22  protection for the entity itself. I think that's --  
23  to me it's sort of contrary to the Act and TVA gets  
24  in to where it's self-serving.

25                   MR. KENNETH DARNELL: In defense of  
1   the comment, and I don't believe we have a big  
2   disagreement there, TVA already has the broad overall  
3   plan that provides for the development that is

4 consistent with the Act.

5                   What we're dealing with here is a very  
6 specific little niche. It's actually a proposal that  
7 says, okay, we have a master plan that we think is in  
8 the public's best interest and we have sold that to  
9 the public, but now we think maybe there might need  
10 to be changes and that's a potential mine field when  
11 you open your set plan up that you have already sold  
12 to further change.

13                   I'm not opposed to the change and I  
14 recognize that the dynamics of the Valley are such  
15 that there will be changes and there will be  
16 advantageous situations that arise where you would  
17 need to make a change in the plan, but when you start  
18 changing the master plan you start damaging the  
19 public trust that you built up when you first went  
20 to -- sought to establish a master plan.

21                   TVA is no longer 10 foot tall and  
22 bulletproof and the people that have -- the public  
23 are the ones who ultimately have the say over TVA.  
24 They are the ones that go to their senators and  
25 congressmen and they lobby and they get laws changed  
1 and they get things took away from TVA. 364

2                   Even if the change is a good change,

3 the project is a good project, if there is a negative  
4 public perception over it, I think TVA's image will  
5 suffer and that will prevent TVA from doing further  
6 good things and further development in the future.  
7 We're not talking about the overall plan for TVA.  
8 We're talking specifically about the plan to make  
9 changes to the plan.

10 MR. JIM JARED: I still think that TVA  
11 needs to be afforded the flexibility. I will give an  
12 example, we, in business, have to make a five-year  
13 plan, what are we going to be doing in five years,  
14 and we don't know what we're going to be doing  
15 tomorrow.

16 And if we take and if we go back and  
17 look at the plan five years from now as to what we  
18 plan to do with it, there's no -- there's no  
19 resemblance to what we set out to do at that time and  
20 these -- we don't know who might want to come in and  
21 develop a piece of property that perhaps TVA has  
22 designated for one use but the economic value of this  
23 might totally outweigh what the plan is.

24 FACILITATOR DAVE WAHUS: You need to  
25 move up toward the mic.

1 MR. KENNETH DARNELL: I totally agree

2 with what he says. Where I'm coming from though for  
3 the protection of TVA is the plan and the  
4 interpretation of the plan is only as good as the  
5 leadership of TVA that is in place at that time, and  
6 there's a lot of political pressure brought to bear.  
7 I just tend to lean more on the side of more  
8 protection, more safeguards to keep something from  
9 being rammed through the TVA that would not be in the  
10 best interest.

11 FACILITATOR DAVE WAHUS: Are there any  
12 other categories that should be addressed?

13 MR. PHIL COMER: I don't want to keep  
14 beating this to death either.

15 FACILITATOR DAVE WAHUS: You don't  
16 have to.

17 MR. PHIL COMER: But I want to. I  
18 want to in this case. Overall, overall, and I am  
19 really going to say this, I think TVA historically  
20 has done an excellent job in maintaining a very stiff  
21 spine in terms of believing what their decisions are  
22 or the right thing and best thing and so forth. I  
23 don't think they have been capricious or easily  
24 pressured into bad decisions.

25 I think they have got an excellent

1 history of doing things that frequently are unpopular  
2 and so forth because they try very hard to make the  
3 right decision. I think they've had a long, good  
4 history in that regard through many different boards  
5 and so forth and so on because they have recognized  
6 that.

7 I just don't -- I just don't like to  
8 see them given any sort of encouragement to make  
9 self-serving or self-protective decisions, that's not  
10 just the role of government agencies. It's not any  
11 different than private companies. As Jim Jared said  
12 about the five-year plans and so forth, in private  
13 companies we face this same problem.

14 I mean, as an ex president of a mining  
15 company, believe you me, you go in and start mining  
16 the ground, you get plenty of pressure because you're  
17 disturbing the ground. Well, that's where the  
18 minerals happen to be, you know, you go where they  
19 are. You don't decide you want them out in the  
20 middle of the Sahara Desert, that isn't where God put  
21 them. So private companies suffer the same thing,  
22 Jim.

23 FACILITATOR DAVE WAHUS: Michael.

24 MR. MIKE BUTLER: Just a clarification

25 question on the notes. Did we add to using Kenneth's  
1 example and using Jim's example, Jim's comment on 367  
2 flexibility and Kenneth's comment on public trust, I  
3 just wanted to make sure that earlier when I was  
4 talking about the possible way to split that hair is  
5 to have these guidelines publicly vetted through a  
6 process similar to the shoreline management  
7 initiative, did we capture that public vetting aspect  
8 of that comment?

9 FACILITATOR DAVE WAHUS: We didn't on  
10 the one today. We did in yesterday's comment. We  
11 can capture it again here, if that's what you want.

12 MR. MIKE BUTLER: I think that's key  
13 because I would hope that it would get at Kenneth's  
14 point of the loss of public trust. When you have a  
15 public document that is being altered in an off-cycle  
16 type of approach, if there is a manner by which you  
17 can publicly vet that process, then you get to allow  
18 for Jim's flexibility and maintain the public trust,  
19 and that's -- I wanted to just clarify that.

20 FACILITATOR DAVE WAHUS: Help me  
21 understand. So are you suggesting then that with  
22 this set of guidelines, once the -- once you-all have  
23 had your opportunity to make recommendations to TVA,

24 TVA makes -- Kate and her staff make changes to this,  
25 make changes or don't make changes depending on how  
1 they look at your comments, et cetera, assuming they<sup>368</sup>  
2 make changes, then they should take this -- you're  
3 saying they should take this and put it out for the  
4 public and say, we would like your comments because  
5 this is what we plan to use as our guide if someone  
6 comes in and asks for a change -- an off-cycle change  
7 in the allocations of reservoir land.

8 MR. MIKE BUTLER: Exactly, because it  
9 will provide them legal protection. It will meet  
10 NEPA requirements for process, all of those different  
11 things. Plus, it will kind of cross that bridge and  
12 allow the flexibility that Jim is talking about and  
13 protect the public trust, and hopefully, that  
14 perception -- reduce that perception that Kenneth was  
15 talking about.

16 FACILITATOR DAVE WAHUS: Okay. Let's  
17 go back to question No. 3. I am going to -- are  
18 there any other categories that should be addressed,  
19 any categories that should be deleted?

20 We have three categories, any of those  
21 unnecessary?

22 Any others that should be added?

23                   Let's go to question No. 5. Do you  
24    feel these guidelines will adequately cover the  
25    majority of the situations likely to arise concerning  
1    requests for modifications to land plans and                   369  
2    allocations?

3                   Can any of you envision any situation  
4    where these would not cover it, that these criteria  
5    would not cover?

6                   Mike.

7                   MR. MIKE BUTLER: At least in this  
8    initial draft I can't. I mean, it's been written,  
9    and as Bridgette brought up, the broader  
10   interpretation of public benefit gives them the  
11   flexibility, I think, to encompass just about  
12   anything that might come across the board.

13                  Now, never say never. Who knows what  
14   will happen 20 years from now, but I think the point  
15   is that I was unable to poke any holes in it because  
16   of the way it's written and the way it could be  
17   interpreted.

18                  FACILITATOR DAVE WAHUS: Okay. Anyone  
19   else?

20                  Jim.

21                  MR. JIM JARED: A question on item No.

22 5, the guidelines speaks about regional multi county  
23 local support and it talks about utilities,  
24 distributor coalitions, local planning authorities  
25 and elected officials.

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1 Is the economic development community  
2 considered under -- is that to be under planning  
3 authorities or should it be added separately?

4 I know in our county we have a  
5 local -- we have a county planning commission and  
6 then we have a county economic development council  
7 which operates separately.

8 MS. BRIDGETTE ELLIS: We had just  
9 written it very broadly. So if that's something you  
10 feel we need to be more specific on --

11 MR. JIM JARED: I think it probably  
12 needs to be added it to.

13 FACILITATOR DAVE WAHUS: Possibly if  
14 you were to write it such as then it would really  
15 open --

16 MR. JIM JARED: Except local planning  
17 authorities.

18 FACILITATOR DAVE WAHUS: Local support  
19 such as.

20 MR. JIM JARED: In addition to

21 economic development.

22 FACILITATOR DAVE WAHUS: Such as  
23 utilities, economic development, et cetera, et  
24 cetera, then it opens it up and you have a whole way  
25 that it doesn't become a finite list.

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1 And what you're suggesting is you  
2 don't want it to be a finite list, is that what I'm  
3 understanding?

4 MR. JIM JARED: Well, this is a local  
5 group, I think, that needs to be included in the  
6 list. I think all the counties in Tennessee or at  
7 least most of the counties have what they call  
8 economic development councils now which operate --  
9 they are sort of private, where they might be  
10 government supported, they are still sort of private.  
11 So companies can come in and talk to them and not  
12 have the world know about it.

13 FACILITATOR DAVE WAHUS: Very good.  
14 Thank you.

15 Greer.

16 MR. GREER TIDWELL: I have a question  
17 in terms of covering the majority of situations, I  
18 think I have been working on this with the idea of  
19 basically private development, but Mr. Fyke or others

20 may know whether or not there are more -- are there  
21 public entities looking at swapping land uses that we  
22 really haven't been thinking about?

23 And if so, do these adequately cover  
24 that?

25 I'm just asking a question whether  
1 that's -- out of that five to 30 a year, so a lot of 372  
2 them, none of them? Was this designed to cover that  
3 as well?

4 MS. BRIDGETTE ELLIS: It can cover any  
5 of those types of requests. For example, if we get a  
6 request from a local entity for a public park but  
7 that land is not designated for that, it would apply  
8 there also.

9 So, yes, if you're thinking about a  
10 new state park or you're thinking about, you know, a  
11 new wildlife management area, I would think that you  
12 could use these same type of criteria, although some  
13 of them wouldn't be as stringent probably in terms of  
14 the financial requirements if you are putting it into  
15 like wildlife management.

16 MR. GREER TIDWELL: Let's hope you  
17 meet the financial requirement for some of the states  
18 in this region.

19 MS. BRIDGETTE ELLIS: And that may be  
20 something you might want to talk about in terms of  
21 whether you think that would meet those needs also.

22 FACILITATOR DAVE WAHUS: Any other  
23 thoughts? I know you have thoughts. Would you like  
24 to share them?

25 MR. JIM FYKE: I understood Greer's  
1 comments. I am not sure I understood your response <sup>373</sup>  
2 to when you say from a public perspective how the  
3 flexibility might become. I'm a little bit confused  
4 to what --

5 MS. BRIDGETTE ELLIS: Well, if you had  
6 a piece of property that was designated for  
7 conservation, in other words, it's passive  
8 recreation, it's wildlife management, it's those  
9 types of things, and the State of Tennessee came to  
10 us and said they want to put a state park there, that  
11 would change it more of a developed recreation  
12 component, which is a different planning zone.

13 So you would want -- you would go  
14 through a very similar process to say, do we open it  
15 up -- do we open up the change in allocation for that  
16 intended purpose?

17 MR. JIM FYKE: I guess I understand



17                   Let's go on to No. 6. Among the  
18 criteria identified in the draft guidelines and in  
19 the Council's discussions, which are the greatest  
20 importance to you?

21                   If you were asked which were the -- we  
22 can go through each one and you can tell me whether  
23 it's of high, low or medium importance or if you want  
24 to make some suggestions as to which is the highest  
25 importance, what's your preference?

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1                   MR. JIMMY BARNETT: I have a question  
2 back to you. What difference does it make if they  
3 are all out there which is most important? They have  
4 got to follow them all.

5                   Now, if you're saying what's the most  
6 important one, we're going to put degrees out here,  
7 one, two, three and four, and you don't have to do  
8 this down here but you -- you have got to do them all  
9 anyway.

10                  DR. KATE JACKSON: Do you want me to  
11 respond to that?

12                  MR. JIMMY BARNETT: Yes.

13                  DR. KATE JACKSON: We obviously get  
14 lots of requests like this. We get lots of pressure.  
15 The public at large feels slightly differently about

16 our responsibilities, and Mike has talked about that  
17 a bit, than the economic development community does.

18 It would be helpful to us if this  
19 relatively diverse group of people around this table  
20 could talk a bit about, of that small amount of land,  
21 what's the most important purpose from your  
22 perspective?

23 I mean, at some point you have got to  
24 begin to weigh these. I mean, the comments have been  
25 made that these are relatively subjective. You have  
1 got to weigh water quality benefits or ecosystem <sup>376</sup>  
2 benefits, which are difficult to translate into  
3 financial terms against the financial benefits or the  
4 economic development benefits.

5 We do that in an ongoing way and in an  
6 open discussion way on individual projects through  
7 the NEPA process, but if you have got input for us  
8 with respect to what's the most important thing, from  
9 your perspective we would like to hear that.

10 MR. JIMMY BARNETT: As I mentioned  
11 when I introduced myself, I have a very interested  
12 heart. I get torn one way or the other. If I go  
13 back home and they find out that I said I wasn't  
14 interested in economic development, I didn't think it

15 was real high up the list, I'm history before I want  
16 to be.

17 If I go back in front of a bunch of my  
18 friends who are very environmentally minded, Charlie  
19 Rhodes and some of those in that neck of the woods,  
20 you know, I can survive better there, it's not that  
21 much economics, they will just ostracize me. If I go  
22 back and say I am not in favor of God and country and  
23 so forth, you know, the church will throw me out.

24 At any rate, I get torn. You asked me  
25 which is the most important, name a situation, name  
1 me a county and name this and I will say, to this 377  
2 county at that point in time under these conditions  
3 that's the most important, and I will do the same  
4 thing for Colbert County which I run a utility.

5 It was very important to get the  
6 industrial park we had out there on the river and  
7 that was very important. Now, with that particular  
8 piece of property and given all of the conditions  
9 that were in our neck of woods, we needed that for  
10 our whole two county area, period.

11 Now, on the other hand, the decision  
12 not to have a golf course down there on the TVA  
13 reservation property, I kept a fairly quiet profile,

14 I agreed with not doing it there deep down. I think  
15 it's wonderful right where it's at, and I had to keep  
16 quiet because it would have been more of a benefit to  
17 Sheffield. So that's the problem I've got when you  
18 say prioritize.

19 DR. KATE JACKSON: Exactly, Jimmy.  
20 Therein lies the break in public credibility that TVA  
21 has, because those of you who believe that we are  
22 making a very good and very difficult decision are  
23 quiet, and that's the point. I want this group to  
24 share the pain.

25 I mean, if, in fact, you-all believe 378  
1 we need to make tougher decisions with respect to  
2 withholding public land for public use, which is the  
3 entire discussion here, you need to help me do that.  
4 I can't do it without public support.

5 And if you believe that we need to  
6 ditch all of this land and sell it all to private  
7 developers, I can't do that without your support.

8 So the issue, it's hard. I mean, if  
9 this were easy I wouldn't need you guys. So, I mean,  
10 to the extent that every single request is different,  
11 then you are handing me the role of the subjective  
12 bureaucrat, and I am okay with that, but that doesn't

13 solve the public trust and credibility issue. So if  
14 you want to help with that, jump in.

15 MR. JIMMY BARNETT: Again, continuing  
16 our discussion, I agree with your particular outlook  
17 because that's the same one I had back on my side.  
18 And also, I don't mind going up particularly right  
19 since I'm not long for the world anyway until  
20 retirement, it doesn't bother me a bit.

21 The problem I get into, and I think  
22 everybody has talked about it, and Mike, I think, was  
23 the last one that talked about it there, let's tell  
24 the public what we're doing, whether it's me or  
25 whether it's you, speaking of Sheffield utilities  
1 versus TVA, let's tell them what we're doing. 379

2 Then if there's enough human outcry,  
3 you know, somebody will force us to change it, but  
4 let's just tell them what we're doing here and why  
5 we're doing it and we think it's in the best interest  
6 and go from there in this particular case.

7 I would love to have everything black  
8 and white, I don't do it unless I do this, like your  
9 mother gave me rule about this, that and the other, I  
10 didn't have a choice to do it, well, I had a choice  
11 because I had to suffer the consequences.

12                   It would be hard for me to tell you,  
13   you know, totally honest, would you always say that  
14   economic benefit is the best, no. There are times  
15   when you need to protect some wetlands out here, is  
16   that economic, in the future you might say it's  
17   economic, but as you said, it's hard to put a dollar  
18   value on that.

19                   So am I going to put my judgment on  
20   it, sure, I will. Everything that you do I will have  
21   my judgment on it. If you tell me what you're doing  
22   and why you're doing it, I am more apt to understand,  
23   if I am intelligent, than if you just do it and I sit  
24   here and wonder about your motives, you know, why you  
25   did it, at least some reason. I don't know how to  
1   answer you. I'm sorry. 380

2                   FACILITATOR DAVE WAHUS: Let's see  
3   what other people have to say and maybe we -- Mike.

4                   MR. MIKE BUTLER: You know, after  
5   dinner last night I will share the pain for a long  
6   time, but that's not a problem, but I think for us  
7   to -- the main criteria, and I have discussed this  
8   with Bridgette prior to even coming on the Council,  
9   is the maintain and gain portion weighing out those  
10   public benefits, that that criteria, I think, is

11 the -- is the engine that will make that run, at  
12 least from the folks that we hear from.

13 FACILITATOR DAVE WAHUS: Okay. Bill.

14 MR. BILL TITTLE: I don't necessarily  
15 disagree with Jimmy. It's tough, I think, to pick  
16 one out, but if I had to pick one, if Kate is going  
17 to hold a gun to our heads and make us pick one, I  
18 think the category of public interest and then the  
19 criteria -- the first criteria spells out a balance.

20 We talked yesterday and the day before  
21 about balance, and I think the public interest  
22 guidelines and then the first paragraph under that  
23 addresses balance for the public interest about as  
24 well as any other single line or single statement in  
25 the three pages.

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1 FACILITATOR DAVE WAHUS: And I am  
2 seeing several heads nodding around the table  
3 agreeing with you, Bill.

4 Miles.

5 MS. MILES MENNELL: Well, Mike really  
6 said what I was going to say. When we come back to  
7 it, it's the no net loss, and I think that needs to  
8 be an underlined guiding principle as we go forward  
9 so that we're protecting this incredibly value land

10 and we're being adequate stewards of them.

11 So as we trade out lands or whatever  
12 for economic development, I think we always need to  
13 keep in mind that we have this extraordinary resource  
14 and we want to protect that, and whatever the  
15 language is for protecting that, I think that should  
16 be underlined. So I am really reiterating what Mike  
17 said.

18 FACILITATOR DAVE WAHUS: Greer.

19 MR. GREER TIDWELL: I am just going to  
20 say, yes, Miles, underline what I just -- the word  
21 supersede in the first one, and that gets to the  
22 concept that we have been talking about some. Just  
23 maintain is not good enough to come outside of the  
24 plan and what the public process is. It needs to  
25 gain or supersede or enhance the public value of  
1 what's there. 382

2 FACILITATOR DAVE WAHUS: And that is  
3 there in that first criteria?

4 MR. GREER TIDWELL: Yes. Until Bill  
5 got me focused on that, I hadn't -- that word hadn't  
6 triggered the fact that Bill Tittle said that.

7 FACILITATOR DAVE WAHUS: Miles.

8 MS. MILES MENNELL: So while we've

9       talked about changes in land use, I think those  
10       guiding -- that particular principle or that point of  
11       view needs to underlie everything we're doing. That  
12       first here's the bottom line, we're not going to do  
13       anything to jeopardize the value of the lands that  
14       we're holding for future generations and that we  
15       support development or whatever, but we have to be  
16       very selective in where that goes and somehow we have  
17       to protect these natural and stewardship  
18       responsibilities.

19                       FACILITATOR DAVE WAHUS: Bruce.

20                       CHAIRMAN BRUCE SHUPP: I think that  
21       can be used when we go back up to No. 2 to make some  
22       type of a policy or philosophy statement that would  
23       strengthen the guidelines that are developed, that's  
24       what I would like to see on that one.

25                       FACILITATOR DAVE WAHUS: Keep that in  
1       mind and when we get up there after the public -- 383  
2       anything else?

3                       Yes. I'm sorry. Jim.

4                       MR. JIM FYKE: I was going to say amen  
5       to the protection of the natural and cultural  
6       resources at a no net loss policy.

7                       CHAIRMAN BRUCE SHUPP: Strong

8 statement.

9 FACILITATOR DAVE WAHUS: Jimmy.

10 MR. JIMMY BARNETT: I guess my  
11 comment, I heard what I had to say and didn't even  
12 like that. I am leaving something unsaid, and I  
13 think it goes back and ties on to what different ones  
14 have said.

15 And I think Mike last articulated it;  
16 and that is, hey, I think TVA should have the rank  
17 using some of these guidelines to make certain  
18 decisions, okay, but let's throw it out there, Kate,  
19 to all of the public and say, here's what we did and  
20 here's why we did it.

21 Now, if they don't like it, they are  
22 going to let you know because they are going to let  
23 you know anyway and then you handle it from that  
24 particular standpoint. That's the way I have handled  
25 a lot of discussions over things that I have had to  
1 do. So rather than say prioritize it, let's put  
2 these guidelines out there. You have got them. You  
3 came up with this body of 20. If it comes out this  
4 is the way it is and this is why we did it, we say  
5 this is the net value.

6 If I'm a rabid environmentalist or if

7 I'm a rabid industrial developer or something, you  
8 know, I am going to say, no, it needs to be out here  
9 for this industrial park or, no, it needs to be over  
10 here for the spotted bull frog or whatever, but it  
11 doesn't make any difference. It's the amalgam of  
12 that that makes the difference, the amalgam of  
13 different types of people with their different type  
14 decisions, just as we bring it in here.

15 This might would cause folks to give  
16 you their opinion. We're giving you our opinions and  
17 I just -- quite honestly, I don't know how to make --  
18 I can't make something -- I can't give you a  
19 priority.

20 And you mentioned public interest,  
21 that's right, which public? It's the amalgam that's  
22 out there. It's the public, which is an amalgam.

23 So in certain cases more things would  
24 be important to a group than the same thing to  
25 another group up in East Tennessee if you look at

1 West Tennessee or East Tennessee or Alabama versus  
2 Kentucky, whatever. So I am saying there is no  
3 common stamp that always fits the definition of the  
4 public or anything else. That's what I am trying to  
5 get around.

6 Am I mixed up, yeah, but that's my  
7 honest opinion.

8 I think taking these and saying,  
9 here's why we did it, whatever it is you do on all of  
10 these decisions, and if there's enough human outcry  
11 maybe this needs to be changed with a group of 20 or  
12 30 or whatever.

13 MS. MILES MENNELL: So in conclusion,  
14 let's be proactive and not reactive.

15 MR. JIMMY BARNETT: Yeah, let's put  
16 this out proactive and then be reactive when we have  
17 to be.

18 MS. MILES MENNELL: Let's not be  
19 reactive at all if we can help it.

20 MR. JIMMY BARNETT: Well, you have to  
21 be sometimes. I'm not going to make any more  
22 comments because I am confusing myself.

23 FACILITATOR DAVE WAHUS: Any other  
24 comments?

25 Mr. Chairman, I think -- go ahead.

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1 MR. TOM LITTLEPAGE: As these  
2 guidelines would be used in a general sense to enter  
3 into a decision to undertake a permitting review,  
4 once that process is kicked off therein lies a

5 vehicle by which a decision may be made and an  
6 opportunity to provide explanations as to why or why  
7 not a permit was granted.

8 So there is a process in place to  
9 explain. Once you have initiated this process and  
10 made the decision to permit a given development or  
11 not, there is a vehicle for that to take place.

12 Is there a process in place that  
13 allows a cumulative approach for off-cycles  
14 project-by-project to assess what's happening in this  
15 ten-year period while the plan is undertaken?

16 You know, we heard the Corps mention  
17 yesterday that they annually go back or they have a  
18 meeting around their projects to talk about what's  
19 going on.

20 Is there any vehicle in place right  
21 now where during this off-cycle period the cumulative  
22 effect of what's going on with regards to land use or  
23 changes that have occurred to the original plan or  
24 cumulatively laid out?

25 MS. BRIDGETTE ELLIS: We don't  
1 periodically go out and like do monitoring assessment  
2 of what are the backlying developments that are going  
3 on, particularly -- really what we're concerned about

4 are the types of things that are going on on the TVA  
5 land.

6 MR. TOM LITTLEPAGE: Well, I am just  
7 talking about updating the land use plan as it  
8 currently exists. As that changes year-to-year based  
9 on these off-cycle actions, is that ever relayed to  
10 any group or is it available to any group?

11 MS. BRIDGETTE ELLIS: It relates to  
12 the next analysis that you're going to do. In other  
13 words, if you have permitted a marina over here in  
14 the last five years and then, you know, now you get  
15 another marina a half a mile away, you take that into  
16 consideration in terms of your analysis of needs.

17 MR. MIKE BUTLER: But nobody outside  
18 TVA is seeing that?

19 MS. BRIDGETTE ELLIS: That would be as  
20 part of that environmental review of that next  
21 project. You would take into account your existing  
22 conditions and existing assessments.

23 FACILITATOR DAVE WAHUS: Joe.

24 MR. JOE SATTERFIELD: Just a very  
25 general comment, and purposely the group around this  
1 table are very diverse and from different  
2 communities. Even with guidelines, a lot of pressure

3 is going to be put on TVA because of local  
4 situations.

5 And we have -- in our area there's  
6 roughly 50 to 60 percent of the property, the land  
7 mass in the counties there in the mountain area are  
8 already -- it's owned by some government entity,  
9 either U.S. Forest Service, TVA or the states. I  
10 think in some development proposals that might make a  
11 difference in the way that TVA looks at it.

12 And I guess my thought pattern, and I  
13 don't want to -- please don't throw anything at me,  
14 there is a lot of natural resource protection already  
15 there. What we may need more than, you know,  
16 20 acres of protection is 20 acres of economic  
17 development. Enough said. There's going to be a lot  
18 of differences.

19 FACILITATOR DAVE WAHUS: Okay. Thank  
20 you. It's now time to -- for us to stop our  
21 discussion for a bit and hear from the public.

22 And Mr. Chairman, I will turn it over  
23 to you just a moment, but I want to remind you that  
24 based on what we do hear in the next session, we will  
25 be coming back and we will be reviewing what we have  
1 already discussed and you'll have an opportunity to

2     make any modifications, additions, deletions or  
3     whatever, and then we will go on to the last two  
4     questions. We will come back to No. 6 and then we  
5     will go to questions one and two before we finish  
6     today.

7                     Mr. Chairman, I'll turn it back over  
8     to you.

9                     CHAIRMAN BRUCE SHUPP: Thank you. We  
10    have four registered speakers right now. Our custom  
11    is five minutes for each speaker, plus questions or  
12    discussion from the Council. We have different  
13    topics for each speaker. So it should be a very  
14    interesting session for us this morning.

15                    The first speaker is Nelson Ross, who  
16    has been before us before. He's the Executive  
17    Director of Tennessee Isaac Walton League from  
18    Knoxville.

19                    Nelson.

20                    MR. NELSON ROSS: Thank you, Chairman  
21    Shupp and Ms. Jackson and Members of the Committee  
22    for allowing the public to speak at the Council  
23    meeting.

24                    I am going to address three topics  
25    briefly. One, the public lands. One, the TVA air

1     quality issue. The third, our request to make an  
2     extended formal presentation before the Council.

3                 First, the public lands. We believe  
4     that TVA is working inside the TVA Act in their  
5     current policies. We do not feel that one shoe fits  
6     all as far as a land management plan. We think the  
7     issues are too diverse, considering all the  
8     communities where TVA holds land in the public trust  
9     to force decisions to be made, having one standard  
10    land use procedure that would fit all situations.

11                We think that TVA management and we  
12    trust TVA management in making proper decisions based  
13    on the following, and we do have some suggestions  
14    that would be considered inside that context, that  
15    TVA should ensure that land use management is a  
16    completely and open process so that there would be no  
17    questions that anything was brought to the public  
18    after decisions had been made and that you follow  
19    good standard procedures in having dialogue with the  
20    public on these matters.

21                Also, we support the no net loss as  
22    having four characters involved in that. Make sure  
23    that the swap is absolutely equal in all respects,  
24    and this includes the volume of the property, the

25 acreage, that the habitat quality has been proven 391  
1 scientifically to be equal or better, and that the  
2 shoreline be equal in distance on the property.

3 And fourth, that it be on the same  
4 reservoir so it would have the same regional impact  
5 and regional influence. We do not support swapping  
6 land that would be on Kentucky Lake reservoir, say,  
7 when it was maybe taken off Tellico or some other  
8 area. That just takes things too far away from the  
9 citizens and the resource that has been impacted.

10 Further, we feel that TVA, when land  
11 use has been changed, and let's say in the case where  
12 a developer buys property and it's being developed,  
13 we think TVA should maintain control and enforcement.  
14 Now, I know with TVA normally you say, we don't have  
15 a lot of enforcement powers, but you do have some  
16 enforcement powers relative to -- if you're giving up  
17 management of public land, I feel like you can  
18 enforce some of these standards that are expected by  
19 the public that would be perceived by being lost when  
20 it comes out of public domain into private control  
21 and they're related in this area.

22 Developers have a tendency to seek  
23 scenic views to enhance property values, especially

24 shoreline development, and many times ignore proper  
25 buffer management. So we feel like TVA should, prior  
1 to the change, be sure and enforce buffers in this 392  
2 land exchange.

3 Also, facilities like golf courses and  
4 maybe recreational areas that may want to be put next  
5 to water, we have all seen scenic views where water  
6 is the background for a par three golf hole and  
7 developers come in and take out the riparian zone,  
8 maybe have a tree or two in the background, but they  
9 are looking for the good visual quality to hit this  
10 ball to a green that's nested around water, those are  
11 not always good things to happen on public lands. So  
12 with that, before the development takes place, those  
13 kinds of conversations should be conducted with the  
14 developer.

15 Marinas should be required to meet the  
16 highest standards of management when marinas are put  
17 in on these public lands.

18 Finally, TVA should maintain some  
19 control, enforcement or at least communication in  
20 ensuring that best management practices be used in  
21 developments on these public lands that have been --  
22 had the use designated as changed.

23                   Many developers are not following best  
24   management practices, and there is some serious  
25   erosion taking place in TVA reservoirs and streams                   393  
1   that feed them from lands that have been -- that have  
2   had land use change. So that would be our comment  
3   there.

4                   The second is TVA air pollution.  
5   There's a lot of -- I don't like to use the word  
6   controversy, but we all know that TVA is a ready  
7   target because you're a major power producer. You  
8   use a lot of fossil fuels in generating those powers.

9                   One element that we feel, the Isaac  
10   Walton League, has not been addressed; that is, TVA  
11   using power conservation as a tool to reduce the  
12   power demand and making that power available then for  
13   economic development as a way to both reduce demand  
14   to burn off fossil fuels and not give up the  
15   availability of power for economic development.

16                  TVA is good at that. You have proved  
17   that in the '70s in response to the energy crunch  
18   that we had in the early '70s. TVA had a world class  
19   power conservation program, and for that to be  
20   reinstigated, I think, would save a lot of problems  
21   and it would be a good public relations move with the

22 public.

23 Thank you.

24 Finally, the last time we made a  
25 presentation before the Council we respectfully asked  
1 for a period of time at a future Council meeting that <sup>394</sup>  
2 you would designate for us to have an extended  
3 session, and we recommended 15 minutes, where we  
4 would provide a PowerPoint presentation of the kinds  
5 of things that our TVA stakeholder group is doing  
6 with private enterprise, not TVA monies, that enhance  
7 the water quality and the TVA lakes, reservoirs and  
8 feeder streams in this region.

9 We're successfully investing about 54  
10 hours a day based on our staff of seven full-time  
11 people working professionally in the resource to  
12 enhance economic growth and the quality of life in  
13 this region as well as enhancing the recreational  
14 quality of TVA waters.

15 Thank you so much for the opportunity  
16 to speak. And if you have questions, I will receive  
17 those.

18 CHAIRMAN BRUCE SHUPP: Thank you,  
19 Mr. Ross. Appreciate it. I can assure you I didn't  
20 forget your request to speak. We just -- I'm sure

21 TVA didn't either. We just haven't been in the  
22 subject of water quality for the last few sessions.  
23 It's been more on regulatory policy on land use and  
24 recreation and that type of thing. So we just  
25 haven't had the opportunity to invite you, but I am  
1 sure we will keep that in mind. 395

2 MR. NELSON ROSS: Thank you. I  
3 appreciate that, Mr. Chairman.

4 CHAIRMAN BRUCE SHUPP: Thank you. The  
5 next speaker is the Mayor of Meigs County, Ken Jones.  
6 He's going to speak to us about the Watts Bar Land  
7 Use Plan.

8 MR. KEN JONES: Good morning. Thank  
9 you, Chairman Shupp. I want you to know that I  
10 appreciate very much the opportunity to come here  
11 this morning and speak to you.

12 And as I have been sitting back here  
13 this morning listening to the comments, I've come to  
14 one conclusion; and that is, that this group has an  
15 opportunity to do one of two things this morning.

16 As I stand before you to talk about  
17 economic development on TVA public land, you can  
18 either reinforce the feeling that I have or you can  
19 make me feel at ease of the feeling that I have, and

20       that feeling is of Daniel in the lion's den.

21                       As the Mayor of Meigs County and a  
22       neighbor to Rhea County on the Watts Bar Reservoir  
23       and the new TVA Land Use Plan, which has identified  
24       1,700 acres of property that could be used for  
25       development in that area and the fact that Meigs  
1       county around Rhea County have jointly went together 396  
2       and formed the Watts Bar Development Authority and  
3       the fact that about 3 percent of TVA's public land is  
4       designated for economic development. And as you can  
5       see on the handout that I have given you, the other  
6       six designated uses of TVA public land.

7                       Because of that 3 percent Watts Bar  
8       Development Authority will be making a request to the  
9       TVA Board to turn over that 1,700 acres for  
10       development on the Watts Bar Reservoir.

11                      Now, let's talk about a part of that  
12       1,700 acres. Whenever we're talking about  
13       conservation, whenever we're talking about  
14       environmental issues, of which this group, I'm sure,  
15       is very keen on.

16                      For a large part of the year, from  
17       probably early April until late October, early  
18       November, there are squatters on this property along

19 the Watts Bar Lake. They come in and set up their  
20 tents and they set up their little school buses and  
21 travel trailers and they are there for six, seven  
22 months of the year.

23 Yes, they are fishing, I will take  
24 that into consideration, but what they are also doing  
25 is defecating on the ground and when it rains it  
1 washes into the lake. That is a very strong 397  
2 environmental issue for me because I live south of  
3 the Watts Bar Reservoir.

4 I believe that the development that we  
5 are planning, which calls for a master plan that  
6 would be administered by the Watts Bar Development  
7 Authority and carried out to the dotting of the I's  
8 and the crossing of the T's.

9 Yes, I am very much interested in the  
10 economic impact that it would have on Meigs and Rhea  
11 Counties because I think that we're talking over a  
12 period of seven to ten years anywhere from 6 to 700  
13 million in the development on this property.

14 Meigs County is an economically  
15 depressed county by TVA standards, as well as  
16 Appalachian Regional Commission standards. Certainly  
17 I'm interested in that because we in government are

18 always looking for those areas that we can broaden  
19 our tax base without imposing any additional taxation  
20 on our property owners.

21 My question to you is this: Don't  
22 look at development as a bad thing. Development can  
23 be a good thing. And when we take an area like this  
24 that is being ravaged by four wheelers, by people in  
25 four-wheel drive trucks that are making ruts deep 398  
1 enough that you and I can walk in, I think a  
2 development that we have in mind would be a great  
3 asset to this area. Certainly, yes, it would be an  
4 asset to Meigs County and Rhea County, Roane County,  
5 McMinn County, any of those surrounding areas that  
6 would be impacted by it.

7 Meigs and Rhea County and the Watts  
8 Bar Development Authority will be participating in  
9 this June 7th public meeting at Roane State Community  
10 College, and we will be available if you have any  
11 questions. If you have any questions here this  
12 morning, I will be happy to entertain those.

13 CHAIRMAN BRUCE SHUPP: Questions?  
14 Comments?

15 MR. PHIL COMER: Are 1,700 acres  
16 contiguous?

17 MR. KEN JONES: No. Part in Rhea  
18 County and part in Meigs County. Other than that,  
19 yes. On the Meigs side approximately 600 acres is  
20 divided by State Highway 68. On the Rhea County  
21 side, I think there's about 1,100 acres on the Rhea  
22 County side, and it is all continuous, which is on  
23 the north side of State Highway 68.

24 MR. PHIL COMER: It's not wilderness?

25 MR. KEN JONES: Yes. Well, now, on <sup>399</sup>  
1 the Meigs County side it is. There's a very little  
2 part of it that has been designated as a recreation  
3 area, but it has been vandalized to the point that  
4 it's beyond use now.

5 On the Rhea County side you have the  
6 old Watts Bar Peach Smith Resort there. And as far  
7 as I know right now, it's unoccupied at this time.

8 MR. PHIL COMER: What is the county  
9 seat?

10 MR. KEN JONES: The county seat of  
11 Meigs County is Decatur, Tennessee, the only  
12 incorporated city in Meigs County. In Rhea County  
13 the county seat is Dayton.

14 CHAIRMAN BRUCE SHUPP: Mike.

15 MR. MIKE BUTLER: Mr. Mayor, does

16 Meigs County have an economic development plan as a  
17 county prior to the establishment of the Watts Bar  
18 Development Authority?

19 MR. KEN JONES: No. Simply no. About  
20 three years ago state statute required that every  
21 city and county entity come together and form an  
22 economic development board, which Meigs County was a  
23 little bit late in doing that, but we have recently  
24 did that. They are -- they are very young, less than  
25 a year old.

400

1 MR. MIKE BUTLER: My second question  
2 would be: Does anybody in county government have  
3 figures on how many acres of private land have been  
4 developed around Watts Bar?

5 MR. KEN JONES: I'm sorry, but I don't  
6 have that information. I would be more than happy to  
7 get it to you. I don't -- there is several.

8 UNIDENTIFIED SPEAKER: Is it  
9 permissible for members other than the committee to  
10 make a comment?

11 CHAIRMAN BRUCE SHUPP: It's a public  
12 discussion. So keep it quick and go ahead.

13 UNIDENTIFIED SPEAKER: Mr. Mayor, when  
14 making presentations -- and we fully appreciate the

15 right to petition for economic development and we  
16 support economic development, but I think when making  
17 presentations publicly on a matter it's real  
18 important to validate the vandalism that's taking  
19 place, using terms like the area's been ravaged,  
20 using terms like defecation on the ground, polluting  
21 the environment, those things needs to be -- need to  
22 be qualified and I think there needs to be some data  
23 present also rather than just those -- we can't make  
24 presentations for you and don't intend to, but I  
25 think it really serves all of our parks if when we  
1 make the presentations that we can substantiate those 401  
2 kinds of things. And probably in June you people may  
3 be able to.

4 But TVA managing that public land, if  
5 there are those kinds of problems there, the  
6 appropriate way to go would be through TVA and let  
7 them manage their property the way they do very well.

8 Thank you, sir.

9 CHAIRMAN BRUCE SHUPP: I don't think  
10 you have to comment on that.

11 MR. KEN JONES: If you would allow me,  
12 whenever your next meeting is, I will be more than  
13 happy to document every word that I have said here

14     this morning.

15                     And in response to the gentleman's  
16     request that we make TVA aware of this, TVA -- Melton  
17     Hill, watershed, has been very well aware of this  
18     situation for several years.

19                     CHAIRMAN BRUCE SHUPP:   Any more  
20     questions?

21                     Thank you.

22                     MR. KEN JONES:   Thank you and thank  
23     you, Council.   Thank you very much.

24                     CHAIRMAN BRUCE SHUPP:   Next speaker is  
25     Frank Robinson, Economic Director, City of Oak Ridge,  
1     and he wants to talk us about the breeder site.                     402

2                     MR. FRANK ROBINSON:   I want to thank  
3     you, Mr. Chairman, Council Members, Kate Jackson for  
4     giving us the opportunity to come here and speak to  
5     you this morning.

6                     I'm here on behalf of the City of Oak  
7     Ridge, and we want to take this opportunity to thank  
8     TVA for its proposal to classify the 500 plus acres  
9     that we call the breeder site as a mixed use  
10    development area.

11                    We feel that it's important that Oak  
12    Ridge use this property to the maximize its economic

13 development base. Also, it's important that Oak  
14 Ridge use this property to enhance its environmental  
15 protection or concerns that it has.

16 Oak Ridge doesn't see economic  
17 development and environmental protection as  
18 exclusive -- mutually exclusive, but we see them as  
19 an opportunity to do both at the same time.

20 We think that this concept of mixed  
21 use would allow Oak Ridge to incorporate the natural  
22 resources protection that Oak Ridge usually do and  
23 most do it at all times because, as you know, the  
24 City of Oak Ridge is probably one of the most  
25 environmental sensitive cities in the country.

403

1 We are definitely involved to assure  
2 that the environment is protected in Oak Ridge, but  
3 also we have an opportunity here to expand our  
4 economic base which is greatly needed for the city.

5 We want to take this opportunity, the  
6 City Manager and city officials wanted me to come  
7 here and thank TVA for proposing that this piece of  
8 property be used as a mixed development piece of  
9 property whereby we would have the flexibility to do  
10 those things which we feel would benefit the city and  
11 benefit the environment also.

12 Thank you.

13 CHAIRMAN BRUCE SHUPP: Thank you very  
14 much for coming all the way to say that. Appreciate  
15 it.

16 The next speaker is David Monteith.  
17 Is he here?

18 MR. PHIL COMER: He can't possibly be  
19 here before 10:00 or 10:15.

20 CHAIRMAN BRUCE SHUPP: We will squeeze  
21 him in when he gets here.

22 MR. PHIL COMER: I hope everyone  
23 understands. This man is driving two and a half  
24 hours from Bryson City between when he drives a  
25 school bus in the morning and has to take kids back  
1 just to speak five minutes at this meeting. On what<sup>404</sup>  
2 subject, I have no idea.

3 CHAIRMAN BRUCE SHUPP: Is there anyone  
4 else that didn't register that would like to make a  
5 comment?

6 All right. Then let's take a 15  
7 minute break and we will back to start our  
8 deliberations.

9 (Brief recess.)

10 CHAIRMAN BRUCE SHUPP: Okay. Let's

11 take our seats, please. David, let's begin or resume  
12 the discussion of the questions.

13 FACILITATOR DAVE WAHUS: Okay. Let's  
14 review what you gave us for No. 6. And what I would  
15 propose, if you agree, is that we will go over No. 6  
16 and see if you have any additional comments.

17 Then we will go back and review 3, 4  
18 and 5 and see if you have anything else that you wish  
19 to add, take away, et cetera as a result of the  
20 comments that you heard from the public. Then when  
21 we get done doing that, we will go to question No. 2  
22 and then we will end with question No. 1. So we will  
23 go in that general order.

24 Then before we finish, after you have  
25 finished, then we will go around and give you one  
1 last opportunity -- everyone one last opportunity to 405  
2 make any closing comment that you have on this  
3 procedure or these questions before we turn it back  
4 over to Bruce.

5 Okay. Let's review what we have on  
6 No. 6. The question is: Among the criteria  
7 identified in the draft guidelines and in the  
8 Council's discussions, which are of greatest  
9 importance to you?



9 else they wish to add in response to this question?

10 Okay. Let's go back to question No.

11 3, please. I -- we will go back and hit the  
12 highlights of this. As we go through there, if  
13 there's anything that you don't understand or that  
14 you want to modify, change or make any additions to  
15 or delete as a result of what you heard or as a  
16 result of discussion, we will stop and do that.

17 The question was: The draft criteria  
18 addresses public interest, land use and financial  
19 considerations. Do the proposed criteria adequately  
20 address these considerations?

21 In response: Does not include lands  
22 with use restrictions. The ROS changes mean owners  
23 have access to more land.

24 This policy -- these guidelines would  
25 only apply to land that the TVA owns in fee simple  
1 title. 407

2 Environmental criteria should be  
3 spelled out in greater detail in the land user  
4 guidelines and then through the discussion it was  
5 also -- you also made the point that NEPA -- state  
6 that the NEPA process will cover the environmental  
7 issues.

8                   Are there any restrictions for  
9   maintain and gain?

10                  After the land is traded, are there  
11   any restrictions to types of use, i.e., clear  
12   cutting?

13                  TVA can sell land with existing deed  
14   restrictions, and that refers to criteria No. 13.

15                  Environmental assessment is performed  
16   on exchanged lands.

17                  Under the financial guidelines,  
18   criteria, No. 22, the buyer has to show that they can  
19   provide the same level of benefits as the initiating  
20   party and the TVA asks for qualified bidders.

21                  Again, that's if the -- once the land  
22   has been put up for sale, based on a proposal that  
23   had been initiated by an individual or group, if that  
24   same individual doesn't -- isn't successful in  
25   purchasing it, the successful -- the other buyer has  
1   to be able to provide the same benefits. 408

2                   I have to figure out where I am at  
3   here.

4                   The need to consider exchange of lands  
5   across different parts of the Valley, need to  
6   consider exchange of lands across different parts of

7 the Valley.

8 Users on one reservoir with  
9 substantial amounts of public lands can buy parcels  
10 on another reservoir for maintain and gain.

11 Create more public lands when needed  
12 and increase tax base.

13 And there was some discussion  
14 throughout this as to whether that's good or bad,  
15 whether this should allow exchanges between different  
16 reservoirs, and I am not sure I heard a definitive  
17 decision by the group as to whether you should allow  
18 the exchanges to be on different reservoirs or they  
19 should all be on the same reservoir, but we will give  
20 you an opportunity here to make it clear what you  
21 want.

22 DR. KATE JACKSON: David Monteith is  
23 here.

24 FACILITATOR DAVE WAHUS: Let me just  
25 finish this review and then we will get to him,  
1 please.

409

2 Impacts of runoff should be added in  
3 the criteria for land use guidelines.

4 TVA can recommend technologies or  
5 actions to reduce runoff to encourage low runoff and

6 sustainable growth practices, and this refers  
7 criteria No. 3.

8 Clarify criteria No. 3 and encourage  
9 that these practices be carried out.

10 Applicants for change in land use  
11 should be required to vet the project locally first  
12 to ascertain a local opinion before submitting the  
13 proposal to TVA.

14 Provide statements from community  
15 members. Some communities require local approval of  
16 proposals before submitting to TVA. There was a good  
17 bit of the discussion on that as to whether TVA  
18 really can require that.

19 In reference to criteria No. 5,  
20 require integration of regional and local entities.  
21 If a local land use or zoning plan is not in place,  
22 TVA should not entertain a proposal for off-cycle  
23 changes and provide an exception policy for specific  
24 requests. We talked about that a little bit this  
25 morning, I won't explain that any further.

410  
1 Criteria are subjective. Do we really  
2 need criteria for off-cycle changes? You need to say  
3 yes or no as we -- before we finish today.

4 Entertaining requests would open a

5 Pandora's box for additional requests and set  
6 dangerous precedence.

7 And lastly, can these criteria be  
8 clustered under guiding principles?

9 Now, at this point I was going to ask  
10 you if you have anything to change very quickly and  
11 then we're going to stop.

12 MR. PHIL COMER: This is a real  
13 quickie. On the very first bullet I am curious how  
14 does -- how did the ROS change?

15 FACILITATOR DAVE WAHUS: It means the  
16 owners have access to more land.

17 MR. PHIL COMER: Yeah, I don't  
18 understand that. How does that make more land  
19 available?

20 MS. BRIDGETTE ELLIS: I can answer  
21 that. When -- prior to ROS when the lands were  
22 acquired and purchased or maybe we acquired flowage  
23 easement or whatever, there might have been a use  
24 restriction placed on that private property that said  
25 you could not build below a certain contour.

1 So once we did the further analysis of  
2 flood risks modeling, we recognized that there are --  
3 a lot of places where you would never get to that

4 contour based on the historic 100 years of data.

5 So what we are now doing on a  
6 case-by-case basis is when someone comes to us and  
7 says, can I build a foot lower than the contour says,  
8 then we can modify that deed.

9 MR. PHIL COMER: You feel more  
10 comfortable that --

11 MS. BRIDGETTE ELLIS: I mean, we're  
12 not going out and doing that, but when someone comes  
13 to us and asks, you know, can I use an extra 100  
14 square feet of my piece of property, from a contour  
15 standpoint, we will analyze that and see if that's  
16 the case.

17 MR. PHIL COMER: Because you feel more  
18 comfortable that it's not flood prone, whereas  
19 previously -- I was just curious.

20 MS. BRIDGETTE ELLIS: Yes.

21 FACILITATOR DAVE WAHUS: Any more  
22 thoughts or comments?

23 If you have any other comments or  
24 thoughts on this, if you will make a note of them,  
25 and I am going to turn it back over to Mr. Chairman  
1 and we will continue with the public review. 412

2 CHAIRMAN BRUCE SHUPP: Right. Our

3 speaker just arrived. And Mr. Monteith, appreciate  
4 the effort you made to get here today, and we will  
5 get you right on so you can get home again.

6 MR. DAVID MONTEITH: Thank you.

7 CHAIRMAN BRUCE SHUPP: David Monteith,  
8 ladies and gentlemen.

9 MR. DAVID MONTEITH: Folks, I  
10 certainly appreciate you guys letting me, and ladies,  
11 come over here. This is kind of a -- this is kind of  
12 a thank you session, what I want to do.

13 I want to thank TVA and the Regional  
14 Stewardship Council for all the hard work that you  
15 guys have put in to this for the past three years.  
16 And for Swain County, we feel like we have really  
17 come out smelling like a rosebud. For the first time  
18 we have got a turn, and I want to thank you guys.

19 So my name is David Monteith. I am a  
20 Swain County Commissioner and Chairman of the Fontana  
21 Lake User's Association. When we formed we had  
22 several goals.

23 One of our goals was to clean litter  
24 and debris off of Fontana Lake. We have achieved  
25 most of these goals thanks to TVA and the Regional  
1 Resource Stewardship Council.

2                   We have achieved these goals -- in the  
3     past five years the lake users, we have built over  
4     250 fish attractors on Fontana Lake. We've took out  
5     over 5,000 bags of garbage. We have ground over  
6     700 tons of debris. And this is a real success story  
7     compared to what we have had in the past.

8                   With the help of Steve Akers, Woody  
9     Ferrell, Daryl Colberson, Gary Petway, and Jack  
10    Miller, which I understand is retired, but these men,  
11    they have come down on their day's off and helped the  
12    Fontana lake users and helped the volunteers. We use  
13    a lot of prison inmates. These guys have come down  
14    and helped on their days off so we could achieve  
15    these goals.

16                  Also, we have the Fontana Lake Waste  
17    Recovery, this was a spinoff of the Fontana Lake  
18    Users' Association. The reason for this is that we  
19    realize by doing some water samples on Fontana Lake  
20    that the lake was not as clean as we would like.

21                  We found high counts of fecal  
22    chloroform. The state says 200 would be considered  
23    safe to be in the water. We found counts as high as  
24    8, 900, 1,200 counts of fecal chloroform, which  
25    basically the people were swimming in a cesspool. We

1       were eating fish out of cesspool.

2                       Now this is not the case anymore. We  
3       have done water samples all over the lake, most of  
4       them near boathouses, and we come up with this. So  
5       now we have found that our highest fecal chloroform  
6       is around 57.

7                       One of the reasons for that is that we  
8       adopted an ordinance in Swain County and Graham  
9       County to prevent people from discharging their waste  
10      on the lake. This ordinance was adopted by Swain  
11      County and then later Graham County, which has  
12      houseboats on the southside of the lake, Graham  
13      County does. Swain, most of them was on the  
14      northside.

15                      Again, with the help of Steve Akers  
16      and Woody Ferrell and TVA and several other agencies,  
17      we now have a new way to clean up waste. These guys  
18      have come down, helped organize this new group. They  
19      have helped get money brought in from about seven or  
20      eight different agencies, from North Carolina, from  
21      Clean Water Management Trust, from RC&D, and TVA has  
22      put money into this. Not only that, they have put  
23      time and effort to come down, some of them, as I say,  
24      on their days off to work to get this cleaned up.

25                   So now, you know, we have a new                   415  
1    success story.  It's not only picking up litter and  
2    debris.  It is getting, what we say, the poop out of  
3    the water.  We have got a lake that is much, much  
4    cleaner than it has ever been in North Carolina, and  
5    that in return works straight down.  I mean, we're  
6    real proud of this success story.

7                   So, TVA and Members of the Regional  
8    Resource Stewardship Council, University of  
9    Tennessee, UNC of Asheville, Congressman Charles  
10   Taylor and other members of Congress here in  
11   Tennessee, Ms. Kate Jackson and the TVA Board of  
12   Directors, Swain County and Fontana Lake Users'  
13   Association and the Fontana Lake Waste Recovery, we  
14   want to thank you from the bottom of our hearts for  
15   everything that you have done for Swain County,  
16   because in the past six years we have went from this  
17   to this.

18                  I mean, it is -- it's took a lot of  
19    help from a lot of people, and we feel like this  
20    Council -- we have a member here from -- we call him  
21    from Swain County even though he's not from Swain  
22    County.  He's in the adjacent county, but he has done  
23    a tremendous amount of help.  He stood with Phil

24 Comer and these other guys and all you guys, and he's  
25 been our voice. Both of these men have been our  
1 voice. 416

2 This brings me to one other reason  
3 that I have come here today. It is, as I say, to  
4 thank TVA and this Council for the work that you guys  
5 have done.

6 About six years ago I was sitting at  
7 the hospital reading the newspaper, which I rarely  
8 ever do, and I noticed in that paper, it said that if  
9 we you are interested in seeing your lake clean, if  
10 you're interested in seeing your lake have a higher  
11 summertime lake level, please come and join us, and  
12 the bottom of that article said, Phil Comer,  
13 L.O.U.D., Homeowner's Association.

14 You know, one never knows what or who  
15 will catch your eye that will spark something in a  
16 county's mind that will help so many people as clean  
17 water, and we have to have clean water. We are  
18 really proud of Fontana Lake.

19 This ordinance that we have talked  
20 about. It kicked in place in March. We have 500  
21 boathouses that is now beginning to pump through  
22 about \$744,000 worth of grant money and we have

23 brought five boats -- pump-out boats with 250 gallon  
24 tanks. We have built five floating platforms. This  
25 has not been done in North Carolina anywhere. This  
1 is groundbreaking. 417

2 We have got Ted Lions with North  
3 Carolina Clean Water. He has actually made us jump  
4 through every hoop in the world just to get these  
5 done.

6 You can put a gas tank on a lake and  
7 set it up on a platform, not a big problem, but to  
8 put waste in a tank we have had to develop a double  
9 wall tank, a way of containment if you have a spill  
10 out of the double walls. The platforms, they are in  
11 a building that is self-contained, and it's leak  
12 proof also. So we have got three ways of doing it.  
13 This is encaged in a steel cage to where a boat can't  
14 run into it. I mean, compared to gasoline they treat  
15 waste, it's something nuclear. Maybe it is, I don't  
16 know. It may blow up on me.

17 We have really worked to make this  
18 success happen, and by doing so we're it's going to  
19 go state wide. We have done been asked to go to  
20 other counties that has lakes. In doing so, Ted  
21 Lions says that we're going to adopt this state wide.

22       So this is a real plus for Swain County.

23                       Again, we feel like we owe this to  
24       this one particular reason that I have said that you  
25       never know what's going to spark a thought in your to  
1       get a whole county and in return an adjacent county<sup>418</sup>  
2       charged up to where they are willing to put forth  
3       some extra time, effort and get grant money in to  
4       make this happen.

5                       So what I want to do, I have got a  
6       special award, if you-all would let me do so, that we  
7       would like to present.   This award reads:   "This is  
8       presented to Phil Comer, Member of the TVA Regional  
9       Resource Stewardship Council.   Phil, the Fontana Lake  
10      Users' Association would like to thank you for your  
11      dedicated service and support in helping Swain County  
12      achieve our goal of a delayed drawdown on Fontana  
13      Lake."

14                      And Phil, everybody from Swain County  
15      would applaud you if they were here because we  
16      certainly appreciate you.   All the people on this  
17      Council we appreciate, but it seems like Phil is the  
18      man that I -- he caught the first attention to us.  
19      So, Phil, we deeply appreciate you and all of this  
20      Council.

21 MR. PHIL COMER: Needless to say, I am  
22 very embarrassed by this. I had no earthly idea. I  
23 kept telling you, Bruce, that I knew he wanted to  
24 come and speak, and I had no idea what he wanted to  
25 speak about and I am truly embarrassed. Thank you.

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1 Thank you very much.

2 CHAIRMAN BRUCE SHUPP: Any questions  
3 or comments for Mr. Monteith?

4 UNIDENTIFIED SPEAKER: Sir, I would  
5 like to say what they have done over there is  
6 equivalent to walking on the moon. Most people have  
7 said, Mr. Monteith, that that could not be done, and  
8 you people have done the impossible. It's just a  
9 tremendous goal as other people maybe will try to  
10 accomplish.

11 CHAIRMAN BRUCE SHUPP: Thank you for  
12 coming and taking all the time to get down here to  
13 say thank you and to give Phil an award. We  
14 certainly think that that's great to give Phil an  
15 award, and thank you for all the work you do up there  
16 in Swain County. We appreciate it. Thank you very  
17 much.

18 David, back to you.

19 FACILITATOR DAVE WAHUS: I saw a few

20 of you writing some notes down. Catherine, if we  
21 could bring No. 6 back up, please.

22 MR. TOM LITTLEPAGE: Can we zoom that  
23 out, the text, so it's a little bigger on the screen.

24 FACILITATOR DAVE WAHUS: Okay. Does  
25 anyone have anything else that they want to add in  
1 response to question No. 3, which is, do the proposed <sup>420</sup>  
2 criteria adequately address these considerations?

3 Jim.

4 MR. JIM JARED: Could you scroll on  
5 down close to the bottom? I think it's the -- it's  
6 the fourth one up from the bottom. If local land use  
7 or zoning plan is not in place, TVA should not  
8 entertain a proposal for off-cycle changes. I think  
9 that's too restrictive to the counties who do not  
10 have a county-wide zone.

11 MR. TOM LITTLEPAGE: I echo that.

12 FACILITATOR DAVE WAHUS: I hear  
13 someone agreeing with that. How do the rest of you  
14 feel? Should that one -- should that be deleted or  
15 leave it up there with the comments?

16 Greer.

17 MR. GREER TIDWELL: Yeah. Just if  
18 anybody cares, my reason for stating as a nice black

19 and white blanket statement was to generate the  
20 discussion because I don't think it would make sense  
21 to make that a blanket requirement given the state of  
22 planning in the Valley.

23 I'm not sure we ought to take time  
24 today to necessarily read through all the exception  
25 policies that goes with it. I know that's not maybe  
1 as much guidance as TVA would like, but we could get<sup>421</sup>  
2 into sizes. We could get into maybe the language  
3 really ought to be --

4 FACILITATOR DAVE WAHUS: Do y'all  
5 agree that should be removed as one of the criteria  
6 or should -- do you want to leave it up there for the  
7 consideration?

8 CHAIRMAN BRUCE SHUPP: I think it's an  
9 idealistic way to go, but I think Greer is right,  
10 that the state of the planning -- what was it,  
11 somebody said 90 percent or something is unplanned.

12 FACILITATOR DAVE WAHUS: So it's not  
13 realistic?

14 CHAIRMAN BRUCE SHUPP: So it's not  
15 realistic to do it now. It might be something to do  
16 in the future, that's for sure. That's my view.

17 FACILITATOR DAVE WAHUS: Not realistic

18 at this time but something to consider in the future.

19 Any other thoughts or comments on  
20 question No. 3?

21 Okay. Let's go to question No. 4,  
22 please?

23 Are there other categories that should  
24 be addressed? If so, what criteria should be  
25 included in these categories?

1 Add a fourth category to protect TVA's<sup>422</sup>  
2 interest.

3 One possible criterion should be  
4 whether or not the proposed action is good for TVA's  
5 public perception. There was a disagreement over  
6 whether this should be added.

7 The second one is, publicly vet the  
8 guidelines to provide TVA with legal protection and  
9 allow flexibility for the organization while  
10 protecting the public trust.

11 So they -- whatever the guidelines end  
12 up being, vet those with the public, get those out  
13 and get public comments on that before you start  
14 using them so that when they do start -- when they  
15 start being applied, the public will know what's  
16 going on.



16 out, please.

17 MR. TOM LITTLEPAGE: I wanted to ask a  
18 quick question on this guideline. If we were to  
19 finalize this, is there an institutional process by  
20 which -- when we say a NEPA process, what process  
21 would these guidelines go through to become  
22 formalized?

23 DR. KATE JACKSON: We have not decided  
24 that yet, but this is sort of the first step for us  
25 to begin external vetting. Obviously, we want to do  
1 that and we have to think through sort of the process<sup>424</sup>  
2 by which we would do that.

3 MR. TOM LITTLEPAGE: So it may be just  
4 simply releasing this out to the public, accepting  
5 comments, and then proceeding with an internal  
6 approval.

7 DR. KATE JACKSON: It could be or it  
8 could be more specific meetings with particular  
9 stakeholder groups to get broader feedback and input.

10 FACILITATOR DAVE WAHUS: Okay. Good  
11 question. Any other questions? Comments?

12 Okay. Hearing none, let's go to the  
13 next question.

14 Do you feel these guidelines will

15 adequately cover the majority of situations likely to  
16 arise concerning requests for modifications to land  
17 plans and allocations?

18 And in response to that you said that  
19 the broad interpretation of public benefit allows  
20 requests to be considered in the majority of  
21 situations.

22 And in reference to criteria No. 5,  
23 consider adding economic development as an element of  
24 local support, economic development corporations or  
25 economic --

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1 MR. JIM JARED: Personnel, I think.

2 FACILITATOR DAVE WAHUS: Personnel?

3 MR. JIM JARED: Yeah. In our county  
4 it's an economic development director.

5 MR. TOM LITTLEPAGE: Entities.

6 FACILITATOR DAVE WAHUS: So economic  
7 development entity, it could be one in one place or  
8 it could be more in another place. So if we put the  
9 word entity. Thank you.

10 Tom.

11 MR. TOM LITTLEPAGE: And I am not sure  
12 where to ask this question, but we have heard  
13 references to and we have talked to some degree about

14 things like permanent restrictions on runoff  
15 strategies, and I heard one of the speakers talk  
16 about monitoring enforcement in a post-development  
17 environment. I guess I am not sure where or what  
18 TVA's role is.

19                   Once you approve this permit and you  
20 may have permit conditions in place, but it seems  
21 like there's a gray area where you can stipulate in  
22 the permit some kind of things, but does TVA have the  
23 authority or a role to, for example, enforce that the  
24 BMPs are being maintained or being followed and is  
25 that something that's even appropriate in these  
1 guidelines? 426

2                   In other words, you stipulate certain  
3 construction practices or approve the proposed  
4 developments as designed, but in an ongoing  
5 post-project environment is there a place where these  
6 guidelines are ensured that they are being followed  
7 or that certain criteria is being met?

8                   MS. BRIDGETTE ELLIS: A lot of times  
9 when you have one of these types of development  
10 proposals, based on the analysis you do, you will  
11 have a wide variety of environmental commitments.  
12 One of them may be they must use best management

13 practices.

14                   What my staff does then is once those  
15 types of things have been put in place, they do  
16 monitor as part of environmental management system  
17 those commitments and we must check those off through  
18 our system in terms of, are they reaching those  
19 commitments, are they maintaining those commitments,  
20 and then following up with those parties to make sure  
21 that they are doing that.

22                   So we do have a system for, once you  
23 put some type of environmental commitment on a  
24 project, we track those and we monitor them and we  
25 audit them. So we do have a process for that.

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1                   FACILITATOR DAVE WAHUS: Jim.

2                   MR. JIMMY BARNETT: Okay. A question  
3 along that line. Let's say they are not, what  
4 happens?

5                   MS. BRIDGETTE ELLIS: We spend a lot  
6 of time working with them to make sure they  
7 understand the importance of that. And then  
8 depending on what the issue is, if it is something  
9 that is regulated, such as water quality, then we  
10 typically will involve the state on something like  
11 that.

12 MR. JIMMY BARNETT: So there is an  
13 enforcement process, it's not just discussing it with  
14 them.

15 MS. BRIDGETTE ELLIS: It may not be  
16 that -- TVA is not necessarily in that role, but we  
17 can certainly make the regulators involved in that.

18 Now, if it is something related to  
19 archeology or threatened and endangered species, then  
20 obviously there's quite a different process that you  
21 do in terms of looking at those issues.

22 FACILITATOR DAVE WAHUS: Rosemary.

23 MS. ROSEMARY WILLIAMS: Do you monitor  
24 the development after the development is finished as  
25 far as environmental issues?

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1 MS. BRIDGETTE ELLIS: If there are  
2 commitment that we have put in place, yes, that say  
3 they have to maintain shoreline buffers, for example,  
4 or things like that, then we are monitoring those.

5 A good example of that is the first  
6 Mike Ross development on Tellico, which is Rarity  
7 Bay. He had shoreline buffers and corridors where he  
8 could get shoreline access, and we went out there,  
9 you know, pretty much systematically on a  
10 month-by-month basis to make sure that as the

11 development continued that they were following those  
12 practices.

13 FACILITATOR DAVE WAHUS: Greer.

14 MR. GREER TIDWELL: Have you ever had  
15 to sue somebody to enforce the conservation type  
16 easements you're talking about and can you describe  
17 that lawsuit?

18 MS. BRIDGETTE ELLIS: No. But this is  
19 fairly new. I mean, these type of developments are  
20 fairly new.

21 MR. GREER TIDWELL: Do you think you  
22 have that authority under those agreements and the  
23 definition of the proposal?

24 MS. BRIDGETTE ELLIS: I guess I will  
25 leave that one for counsel.

1 MR. BARRY WALTON: If the standard -- 429  
2 the covenant that we put into the deed is one of,  
3 let's say, our own making, sure, we would have the  
4 right of any party to a deed, any seller to bring a  
5 suit in civil court to get enforcement of that  
6 covenant for specific performance.

7 If the standard that we're requiring  
8 them to adhere to is really one that's a state agency  
9 creation standard, then I think we would -- although

10 we would have the right to bring a suit, we would  
11 have a tougher time if that state agency wasn't  
12 itself choosing to enforce it. So my advice would be  
13 do our best to defer to the state agency and get the  
14 state agency to take the lead on it.

15 MR. GREER TIDWELL: I just wanted to  
16 hear the first part of it, if it's in the covenant  
17 you guys have the right to sue. We needed to know  
18 that there's more than just talk and there's a stick  
19 behind that, if you need it.

20 FACILITATOR DAVE WAHUS: Okay.  
21 Anything else on question No. 5?

22 MR. TOM LITTLEPAGE: So I guess along  
23 those lines in terms of how that would apply to the  
24 guidelines then, it may be appropriate in the  
25 guidelines where you include some aspect of past  
1 compliance or a proposed applicant's ability to 430  
2 demonstrate that they have complied with past  
3 projects.

4 As developments occur, I guess you  
5 would get more and more repeat customers, so to  
6 speak. It may be as it stands now you're not getting  
7 a lot of that, but some aspect in terms of the  
8 applicability of this is showing the wherewithal that

9       they intend to meet the covenants and you haven't had  
10       enforcement problems.

11                       FACILITATOR DAVE WAHUS: Any other  
12       comments in relation to question No. 5?

13                       Catherine, would you take us back to  
14       question No. 2, please?

15                       What trade-off strategies or other  
16       approaches should be used by TVA in balancing  
17       conservation, recreation and economic development  
18       uses of public lands?

19                       This morning we -- there was a  
20       discussion and you said -- you talked about adding an  
21       overarching principle for off-cycle requests for  
22       changes in allocation.

23                       Mitigation swap or sale should  
24       increase public benefit over and above the original  
25       designated use, and you said that should be under  
1       question No. 2. During the break we made that 431  
2       change.

3                       Are there -- yes, Bill.

4                       MR. BILL FORSYTH: I would like TVA to  
5       seriously look at the idea of -- in areas where there  
6       is a lot of public land that trade-offs between  
7       reservoirs be made available, because there are areas

8 on the river that don't have much conservation land  
9 that could probably use more and allow some areas  
10 that have nothing but conservation land to have a  
11 little development land.

12 FACILITATOR DAVE WAHUS: Bruce.

13 CHAIRMAN BRUCE SHUPP: I think they  
14 have to make two statements, and I think there's a  
15 needs in the guidelines for some type of a philosophy  
16 statement or a policy statement by the Agency; and  
17 that is, the statement that where there aren't --  
18 where there a lot of developments, where there have  
19 been a lot of developments and there's a request for  
20 this off-line permitting, that TVA is going to take a  
21 real hard-line look at whether anything more should  
22 be developed and then vice versa, where -- you know,  
23 the same thing.

24 I think the philosophy has to be  
25 stated so that both the developer and the public  
1 understand that this maintain or gain philosophy is 432  
2 real and that they believe in it and they believe in  
3 it for a reason, because maybe in some places the  
4 sustained development has been reached -- the maximum  
5 has been reached. So I think they should say that in  
6 these guidelines somewhat.

7 I am not smart enough to word it the  
8 right way, but those philosophies should be stated in  
9 there, that if we feel it's too much development  
10 we're going to be really tough on maintain and gain  
11 and we are going to be looking at areas that are  
12 sparsely developed and may consider a different  
13 philosophy.

14 FACILITATOR DAVE WAHUS: Did we  
15 capture your thought there?

16 CHAIRMAN BRUCE SHUPP: That's the  
17 thought, but the main thought is, state the  
18 philosophy in the guidelines.

19 FACILITATOR DAVE WAHUS: Thank you. I  
20 want to make sure we capture it.

21 CHAIRMAN BRUCE SHUPP: That's the main  
22 point, put it in the guidelines. When it's vetted  
23 publicly, let that concept be vetted.

24 FACILITATOR DAVE WAHUS: Mike.

25 MR. MIKE BUTLER: I would offer this 433  
1 to Bruce's thought; and that is, I don't think we  
2 need to be putting TVA in the position of being  
3 proactive towards these things because what we're  
4 talking about is a reactive -- I mean, a policy that  
5 guides reaction from external requests.

6                   So it might -- I think that it may be  
7   worded a little different where that they would look  
8   at things. I think the guidelines are subjective as  
9   they're written and I am wondering if this would make  
10   it even more subjective and end up getting crossways  
11   down the road. I understand what you're trying to  
12   get at.

13                   I think to Bill's comment about  
14   looking at off-site mitigation, is what the common  
15   term is for that, that that might be a very viable  
16   tool if it was limited to like an adjacent reservoir  
17   or something like that, but I think that the thing  
18   that -- to guard against would be like mitigating  
19   Kentucky Lake for stuff that happens on Fontana,  
20   that's going to be a hard sale.

21                   Personally I think that the criteria  
22   behind whether the development should take place on a  
23   less developed reservoir versus a more developed  
24   reservoir needs to be based upon the best science we  
25   can get, not just on natural resources but on the  
1                   economics of the situation. And I think all of that  
2   stuff is captured in the guidelines with respect to  
3   the internal processes that TVA is going to have to  
4   go through in evaluating a project.

5                   In other words, that's really where  
6   they are going to make the sausage in this whole  
7   thing is an evaluation of the economic viability of  
8   the program of the proposed development, the -- you  
9   know, the credibility of the developers, the  
10   assessment of the market, you know, when they talk  
11   about the guideline, assessing the market in that  
12   area, and then also looking at, you know, what the  
13   other needs may be, conservation or other.

14                  And so I'm not necessarily opposed to  
15   that philosophy statement. I would just want to be  
16   careful that it doesn't provide too much subjection  
17   and put the authority in a position of looking like  
18   they are advocating one course of action over the  
19   other.

20                  MR. BILL FORSYTH: I think that's a  
21   given what you're saying there, but we have got to  
22   open up the possibility, you know. It's closed now,  
23   as I understand it, and I think that possibility  
24   needs to be opened up to allow a little more  
25   flexibility to help areas that are really constrained  
1   because we have what we feel like is too much public<sup>435</sup>  
2   land.

3                  MR. MIKE BUTLER: And I think that you

4 can get at that specifically using some different  
5 unit of measure rather than just the reservoir like  
6 you're proposing, that you could go to an adjacent  
7 reservoir or into an adjacent watershed or something  
8 like that and find a place. There's not going to be  
9 too many places, I think, where you're going to run  
10 into restrictions that wouldn't allow you to get at  
11 the principle that you're talking about, which I  
12 agree with.

13 FACILITATOR DAVE WAHUS: Tom.

14 MR. TOM LITTLEPAGE: I think Mike took  
15 a lot of what I was going to say. The idea is be  
16 flexible to allow that off-site mitigation, but as a  
17 priority, for example, to stay within the same  
18 watershed or an adjacent watershed so that you're not  
19 using Mike's example. You're not mitigating  
20 completely to an unrealistic distance.

21 FACILITATOR DAVE WAHUS: Bruce.

22 CHAIRMAN BRUCE SHUPP: I'm sorry. No.

23 FACILITATOR DAVE WAHUS: Mike.

24 MR. MIKE BUTLER: Just real quick. I  
25 think to expand on that, Tom, you could almost use  
1 the approach that is used, and I don't know if this  
2 completes the appropriate application, but other

3 federal agencies use a avoidance minimization  
4 mitigation approach.

5                   You could look at how other  
6 authorities like the Corps, for example, those are  
7 readily known processes that could get exactly what  
8 Bill is talking about and provide -- in other words,  
9 if you're wanting to impact a wetland, the federal  
10 requirements say you have to avoid that impact if you  
11 can. If you can't avoid it, then you have to  
12 minimize it. If you can't minimize it, then you have  
13 to mitigate. Then when you get into mitigation, they  
14 get into, do you do it on-site, off-site.

15                   And there's a set of rules that  
16 basically guide everybody in that approach, and I  
17 think that those would be pretty helpful maybe to  
18 look at for what we're talking about here in terms of  
19 the strategy.

20                   FACILITATOR DAVE WAHUS: Phil.

21                   MR. PHIL COMER: I am just curious,  
22 Bill Forsyth, can you give an example of how this  
23 would work?

24                   I mean, how can you transfer 100 acres  
25 of forest to Douglas Lake and we will give you  
1 100 acres to develop on Fontana?

2                   Do you have a for instance, any  
3     hypothetical example?

4                   MR. BILL FORSYTH: Well, I don't  
5     really understand -- I mean, I understand with  
6     wetlands why you want to keep them in the same area,  
7     I understand that completely, but some conservation  
8     land, why would it need to be an adjacent reservoir?

9                   Why couldn't the conservation land  
10    added to an area that would like to have some  
11    conservation land that needs more park land to hunt  
12    or fish or whatever for the public?

13                  So they would get that benefit and an  
14    area that needed some economic development could get  
15    that benefit even if they are 150 or 200 miles away.

16                  MR. PHIL COMER: Well, I understand --  
17    you had an example on Fontana, but as you pointed out  
18    yesterday it was 1,300 acres of Forest Service land  
19    for 1,300 acres of Forest Service land on Fontana.  
20    So that was an easy one really and that was within  
21    the same proximity.

22                  MR. BILL FORSYTH: It was three to  
23    one.

24                  MR. PHIL COMER: Yeah. But I don't  
25    understand how you could do it, you know, between

1 Fontana and Douglas, for example, that just  
2 completely eludes me, how there could be that kind  
3 of --

4 MR. BILL FORSYTH: If a developer --  
5 or with the Forest Service they help you pick -- if  
6 you're doing a swap they help you pick out a tract of  
7 land. So a developer might in partnership with TVA  
8 say, where do you need some more conservation land  
9 that I could buy and trade for this piece of land in  
10 this area that needs economic development.

11 MR. PHIL COMER: I think it will  
12 probably regulate itself by just the practicalities  
13 and the economics involved, don't you really?

14 MR. BILL FORSYTH: Yes, I do.

15 MR. PHIL COMER: I mean, it will tend  
16 to be self-governing. There's not a whole lot TVA  
17 per se can do about that.

18 You're saying if they were approached  
19 by a developer they says, okay, we want 50 acres on  
20 Fontana and so I will go down on Cherokee Lake and  
21 buy 100 acres and --

22 MR. BILL FORSYTH: Is there somewhere  
23 TVA needs a buffer that I could buy and trade?

24 FACILITATOR DAVE WAHUS: Greer, did

25     you have a comment?

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1                     MR. GREER TIDWELL:   No.

2                     FACILITATOR DAVE WAHUS:   Any other  
3     comments?   Anything else you wish to add to question  
4     No. 2?

5                     Let's go to question No. 1.   How can  
6     TVA better manage public lands to make a contribution  
7     for meeting conservation, recreation and economic  
8     development needs in the Valley?

9                     What you have discussed before is  
10    provide a philosophy, a policy, a set of standards,  
11    and I think that's what we have been talking about.

12                    A mini SMI or ROS process, and I think  
13    we got to the point where we were talking about  
14    vetting the criteria rather than actually having an  
15    ROS process or SMI.

16                    Public is responsible for helping  
17    develop the process.   And again, I think you're  
18    talking about the vetting process here or giving the  
19    public an opportunity to comment on the process that  
20    you would use.

21                    Any other thoughts?

22                    Any other discussion?

23                    How can TVA better manage lands to

24 make a contribution towards meeting conservation,  
25 recreation and economic development needs in the 440  
1 Valley?

2 Tom.

3 MR. TOM LITTLEPAGE: I will follow  
4 along with what we have talked about, once a decision  
5 is made as part of a closeout of the permitting  
6 process, it's just that explanation of the rationale,  
7 you know, where you sort of close the loop. It may  
8 be in terms of the internal permitting process, but  
9 just reinforcing the rationale behind the decision  
10 and somehow better publicizing that in a way that the  
11 public can get access to that.

12 FACILITATOR DAVE WAHUS: So after a  
13 decision has been made, go back to the public and  
14 say, we made the decision and these are the reasons  
15 for which we made the decision?

16 MR. TOM LITTLEPAGE: (Moves head up  
17 and down.)

18 FACILITATOR DAVE WAHUS: Okay. And  
19 it's not a permitting process, it's a land use change  
20 process that we're talking about. Good comment.

21 Any other questions?

22 Greer.

23 MR. GREER TIDWELL: I was thinking  
24 there was one of our answers to No. 4 didn't really  
25 fit No. 4 and ought to be up here. 441

1 FACILITATOR DAVE WAHUS: Let's go down  
2 to 4 and see what we have.

3 MR. GREER TIDWELL: Maybe it was 4 or  
4 5.

5 FACILITATOR DAVE WAHUS: Publicly vet  
6 the guidelines, we talked about it there.

7 Let's go down to 5. Anything there?

8 MR. GREER TIDWELL: It was the thing  
9 on No. 4 I was referring to.

10 FACILITATOR DAVE WAHUS: Any other  
11 comments?

12 Anything else you want to add?

13 We'll, I'm going to come around now to  
14 each one of you and ask if you have anything else to  
15 add before I turn it back over to the Chairman  
16 because I wouldn't want to think that someone didn't  
17 have an opportunity to make any last minute comments.

18 Austin, you're first.

19 MR. AUSTIN CARROLL: No.

20 FACILITATOR DAVE WAHUS: Mike.

21 MR. MIKE BUTLER: I think we have done

22 a lot of good work.

23 FACILITATOR DAVE WAHUS: Jimmy.

24 MR. JIMMY BARNETT: Somewhere in there  
25 there's something that we left and didn't either say  
1 add it in or take it out. It's a question. Go to <sup>442</sup>  
2 No. 3 maybe.

3 FACILITATOR DAVE WAHUS: No. 3.

4 MR. JIMMY BARNETT: That's where we  
5 had a whole bunch of things, and I'm not sure I agree  
6 with all of those things, that they should be in  
7 there or should be answered down towards the bottom.

8 Well, the third one, criteria is  
9 subjective, do we really need the criteria for  
10 off-cycle changes, my comment is, yes, we do, so just  
11 take that one out, that's my comment.

12 MR. GREER TIDWELL: I agree with that.

13 MR. JIMMY BARNETT: Entertaining  
14 requests could open a Pandora's box for additional  
15 requests and set dangerous precedents.

16 FACILITATOR DAVE WAHUS: You think  
17 both of those should come out?

18 MR. JIMMY BARNETT: Yeah.

19 FACILITATOR DAVE WAHUS: What do the  
20 rest of you think?

21 MR. PHIL COMER: Agree.

22 FACILITATOR DAVE WAHUS: I'm seeing  
23 mostly nods. So let's take out both of those. Okay.

24 MR. JIMMY BARNETT: Can we answer this  
25 last question? Can these criteria be clustered under  
1 the guiding principles? I like where they are. 443

2 FACILITATOR DAVE WAHUS: Okay. So  
3 Jimmy says no, leave them as they are.

4 What do the rest of you think?

5 MR. MIKE BUTLER: That was only --  
6 when I put that on there that was only for -- that  
7 was only almost a housekeeping type of thing. If it  
8 helps make it read more easily when they are all put  
9 together rather than having a solid block of text  
10 that's 25 points long, if it could be carved up into  
11 three or four guiding principles with sub bullets, it  
12 might make it easier to read. So it's more of a  
13 housekeeping issue.

14 CHAIRMAN BRUCE SHUPP: I just  
15 wondered, Kate, these are just discussion items and  
16 issues. They are not anything that we're mandating  
17 or completely recommending. You are just going to  
18 rake through these and see what you can use and what  
19 you can't use.

20                   Is it necessary to clean up all of  
21   this? Can we leave it?

22                   DR. KATE JACKSON: You can leave it  
23   like that, but if you take some of the ones out that  
24   you really don't need to be there, then that focuses  
25   our attention on the advice that you really want me  
1                   to hear. 444

2                   CHAIRMAN BRUCE SHUPP: So we should go  
3   back and comb through it again.

4                   DR. KATE JACKSON: Well, I mean, if  
5   there are things that obviously don't apply any more,  
6   then deleting those are helpful. If there are things  
7   that most of you agree with and a couple of you  
8   don't, then say this is a majority versus a minority,  
9   that might be helpful.

10                  CHAIRMAN BRUCE SHUPP: Let's quickly  
11   comb it.

12                  FACILITATOR DAVE WAHUS: Okay. Let's  
13   start with No. 3 and then we will go back to 2 and 1  
14   after we get done.

15                  Does not include lands with use  
16   restrictions. ROS changes mean owners have access to  
17   more lands. Includes only fee simple land. That was  
18   basically a piece of information that -- to make sure

19     that you understood what it applied to.  Should that  
20     be in there or out of there?  Does it make any  
21     difference?

22                     MR. JIMMY BARNETT:  I think it's been  
23     answered, but I think it ought to be in.

24                     FACILITATOR DAVE WAHUS:  Just leave  
25     it.  Environmental criteria should be spelled out in  
1     greater detail and the land use guidelines state that<sup>445</sup>  
2     the NEPA process will cover the environmental issues.

3                     Let's use a thumbs -- if you want it  
4     to stay, leave it up.  If you're not sure, give me a  
5     thumb to the side.  If you want it out, let's put  
6     thumb down.  That way everybody gets to give me a  
7     comment rather than just those that wish to speak.

8                     Okay.  So for the second one,  
9     environmental criteria should be spelled out in a  
10    greater detail on the land use guidelines, state that  
11    the NEPA process will cover the environmental issues.

12                    Should it stay?  Should it be taken  
13    out?  I'm seeing mostly to stay.

14                    Are there use restrictions for  
15    maintain and gain?

16                    After land is traded, are there  
17    restrictions to types of use, i.e., clear cutting?

18                   It was a question rather than -- what  
19   should we do, leave that in there or remove it?

20                   It's a question really rather than a  
21   recommendation, but what do you want to do?

22                   MR. TOM LITTLEPAGE: It goes into that  
23   post action monitoring that we are talking about.

24                   MR. MIKE BUTLER: That and  
25   negotiations between developers and TVA in terms                   446  
1   of -- the discussion we had about the market, the  
2   market might support one type of thing and it might  
3   not support another and being able to horse trade on  
4   those items.

5                   FACILITATOR DAVE WAHUS: So let's  
6   leave it in there.

7                   MR. MIKE BUTLER: That's just an  
8   explanation of what I remember the discussion was.

9                   FACILITATOR DAVE WAHUS: TVA can sell  
10   land with deed restrictions? Criteria No. 13.

11                   Up? Down? I am seeing a few ups and  
12   nothing else. Okay.

13                   MR. AUSTIN CARROLL: Let the one we  
14   were just talking about, are the use restrictions for  
15   maintain and gain, you know, we couldn't -- it's a  
16   question, should we, you know, just put those down at

17 the end under other general comments, for example?  
18 There may be some that you may want to hold on to for  
19 thinking purposes.

20 FACILITATOR DAVE WAHUS: Put those  
21 under --

22 MR. AUSTIN CARROLL: General comments  
23 at the bottom.

24 FACILITATOR DAVE WAHUS: Okay. Rather  
25 than cutting and pasting at this point, let's just  
1 put a GQ at the beginning of that particular one. 447

2 Let's go back to 3. So you're  
3 suggesting that -- are there restrictions for  
4 maintain and gain, put that under a GC and will  
5 change them afterwards so don't have to spend a lot  
6 of time.

7 Is that what you're suggesting,  
8 Austin?

9 Anybody disagree?

10 Okay. Going on to the next one.

11 Financial guidelines reference to criteria No. 22,  
12 the buyer has to show that they can provide the same  
13 level of benefits as the initiating party. TVA asks  
14 for qualified bidders.

15 Stay? Up or down?

16                   Okay. Need to consider exchange of  
17   lands across different parts of the Valley. Users in  
18   one reservoir with substantial amounts of public  
19   lands can buy parcels on another reservoir for  
20   maintain and gain. Create more public lands where  
21   needed and increase tax base.

22                   Stay? Up or down? What do you want  
23   to do with that? Mostly up. Let's leave it.

24                   Impacts of runoff should be added in  
25   the criteria for land use guidelines. TVA can  
1   recommend technologies or actions to reduce runoff to 448  
2   encourage low runoff and sustainable growth  
3   practices, referring to criteria No. 3.

4                   Up? Down? Mostly up.

5                   Clarify criteria No. 3 and encourage  
6   that these practices be carried out.

7                   CHAIRMAN BRUCE SHUPP: Make it part of  
8   the same one.

9                   FACILITATOR DAVE WAHUS: Combine that  
10   with the one before it?

11                   CHAIRMAN BRUCE SHUPP: Yes.

12                   FACILITATOR DAVE WAHUS: Okay.

13   Applicant for change in land use should be required  
14   to vet the project locally first to ascertain local

15 opinion before submitting proposal to TVA. Provide  
16 statements from community members. Some counties  
17 require a local approval of proposals before  
18 submitting to TVA.

19 Leave it? Remove it? I see one up.  
20 I see Mike wants to make a comment.

21 MR. MIKE BUTLER: Just real quick. I  
22 think it's going to be very difficult to require  
23 that. It would be maybe much easier to strongly  
24 suggest that.

25 MS. MILES MENNELL: Or encourage.

1 CHAIRMAN BRUCE SHUPP: That's a good <sup>449</sup>  
2 word.

3 FACILITATOR DAVE WAHUS: Austin.

4 MR. AUSTIN CARROLL: It seems to me  
5 that's sort of covered under No. 5, regional and  
6 multi county and local support, utilities,  
7 distributors, coalitions, local planning authorities  
8 and elected officials.

9 FACILITATOR DAVE WAHUS: And we added  
10 economic development entity to that later.

11 MR. AUSTIN CARROLL: It seems like --  
12 it's saying that that needs to be considered what  
13 local support it already has.

14                   CHAIRMAN BRUCE SHUPP: I think it goes  
15   beyond that, because as somebody said during our  
16   discussion, sometimes the local governments are very  
17   supportive in the beginning and then they jump all  
18   over the place at the end. So if you don't get  
19   public input in the beginning to find out if there's  
20   going to be problems, everybody can say, oh, yes,  
21   it's a wonderful development, but until you get the  
22   public's viewpoint I think it's going to be tough.

23                   MR. AUSTIN CARROLL: Maybe we just  
24   need to add public support to No. 5.

25                   CHAIRMAN BRUCE SHUPP: You could add  
1   that, but it doesn't say before either, before 450  
2   submitting proposal. I am suggesting that before  
3   they start the process, start the wheels turning and  
4   the billing process where they bill the applicant, as  
5   they start the review process, that it would be  
6   advisable for them to vet this to see if there's  
7   going to be violent opposition. To me that makes a  
8   lot of sense.

9                   FACILITATOR DAVE WAHUS: So you're  
10   suggesting on No. 5 that regional and local support  
11   before submission request to TVA?

12                   CHAIRMAN BRUCE SHUPP: Yes. I will

13 change the word from require to encourage.

14 FACILITATOR DAVE WAHUS: So  
15 encourage -- No. 5 would be, encourage regional and  
16 local support before submission to TVA, something  
17 along that line.

18 MR. AUSTIN CARROLL: Including public  
19 support.

20 FACILITATOR DAVE WAHUS: Including  
21 public support. Okay. How do the rest of you feel  
22 about that one? I see one thumb up, one thumb down.

23 Greer.

24 MR. GREER TIDWELL: I am concerned  
25 about the practicalities of, you know, developing  
1 project options, and I'm putting on my economic 451  
2 development hat a little bit, my site location hat a  
3 little bit. I just -- if we're really going to  
4 advise the Board to take that on as a criteria, we're  
5 putting a big hurdle between now and projects. I  
6 really see that as a big hurdle, and I am not sure  
7 that it's really playing out in this conversation as  
8 being as big a hurdle as it's going to be.

9 CHAIRMAN BRUCE SHUPP: I don't  
10 understand. So clarify the hurdle.

11 MR. GREER TIDWELL: If I am going to

12 go up to Mr. Forsyth's area and map out where I think  
13 a development can go in and do the planning for that,  
14 I need to realize that ultimately I am going to have  
15 to go through a public process because it's TVA land  
16 and there's permitting and et cetera, but that would  
17 set up a situation in the Valley very different from  
18 anywhere else where you're sort of telling the  
19 developer that on your own you have to come up with a  
20 process for getting out in the public and vetting  
21 this in the public.

22 Some developers do that. People are  
23 learning how to do that, but that would be very  
24 different in this Valley than anywhere else I am  
25 aware of where you, without the structure of a  
1 governmental entity, tell some private developer that 452  
2 you have got to go out and vet this on your own  
3 before you come to us. That's just a big difference,  
4 I think.

5 Help me out here, Bill. Maybe it's  
6 not as big a difference as I think it is, but it  
7 seems like it is.

8 MR. BILL FORSYTH: Yeah, in a way it  
9 is, but with TVA public land I think it's good to  
10 know what the public is going to say about it up

11 front. And, of course, if you're going to bring a  
12 tire company up there, we don't need to say it up  
13 front until we have got a done deal, that's  
14 different, but a residential development --

15 CHAIRMAN BRUCE SHUPP: If it's not  
16 required though, if you want to go up and do it  
17 quietly, that's fine, but if TVA says to the  
18 applicant, you know, I am not sure you're going to  
19 get a whole hearty support of this, why don't you go  
20 out there and talk to some people first and see what  
21 they are going to think about it, you know.

22 MR. GREER TIDWELL: Are we at  
23 encourage now?

24 FACILITATOR DAVE WAHUS: Yeah,  
25 encourage.

1 MR. BILL FORSYTH: With encourage a 453  
2 developer can say, no, I don't want to do that, but  
3 if we saw his opportunity to make his case stronger,  
4 then he could go out and do the public notice.

5 FACILITATOR DAVE WAHUS: Jimmy, you  
6 were next.

7 MR. JIMMY BARNETT: I just wanted to  
8 relate a particular thing, and I have got mixed  
9 emotions because I know how secret a lot of folks

10 make it, but when we are dealing with public lands --  
11 let's take the public lands in Sheffield, Alabama.

12 There were some legislators and our  
13 wonderful legislature that came in and decided they  
14 wanted to put a low income project in there not too  
15 far from me, and we have more low income housing  
16 projects in our fair city than all the rest of the  
17 two county area, and I'm sorry, that ain't fair. We  
18 have got more than our share.

19 And nobody knew about it. The mayor  
20 didn't. The public didn't. And now, of course,  
21 we're mounting this opposition, and we're flat  
22 telling them down there, hey, you know, you're  
23 messing with us and we don't like that.

24 So when you are dealing with public  
25 lands, whether it's in the City of Sheffield or with  
1 TVA, I have no problem with encouraging a developer<sup>454</sup>  
2 to do that. Now, if it's on private property they  
3 can do whatever they want to, whatever they can by  
4 with under the regulations.

5 FACILITATOR DAVE WAHUS: Miles.

6 MS. MILES MENNELL: I am confused. So  
7 we're talking about asking the person who wants to  
8 use the land for a different purpose to vet it in the

9 public.

10                   Why wouldn't it make more sense that  
11 part of the process that TVA will initiate, that they  
12 would be the ones that would go to the public and  
13 say, okay, here's your chance, tell us what you  
14 think.

15                   MR. GREER TIDWELL: And they will in  
16 the full process. We're talking about the screening  
17 process.

18                   MS. MILES MENNELL: I understand.

19                   FACILITATOR DAVE WAHUS: What we're  
20 talking about as one of the criteria, one of the 24  
21 criteria, that if an off-cycle change comes into TVA,  
22 they will go down this criteria and they will look at  
23 it to the degree of which proposal has multiple data,  
24 supported public benefits, and go on down and they  
25 will get to the No. 5 and they will -- according to 455  
1 what you have up here now, they will encourage --  
2 they will want to see if there is regional, local or  
3 public support before submission to TVA, and they are  
4 trying to make a decision whether they would proceed  
5 with this off-change request or turn it back to the  
6 individual. So that's the context.

7                   MS. MILES MENNELL: In fact, I

8 understand that and that's common sense to me, but  
9 you can make that process say anything you want it to  
10 say and it doesn't really prove anything. I can turn  
11 that to my benefit whether it's really for my benefit  
12 or not if I am a developer.

13 FACILITATOR DAVE WAHUS: Mike. Jimmy,  
14 did you still want to --

15 MR. MIKE BUTLER: I was just going to  
16 say that having been the recipient of being visited  
17 by developers, and one was for a water permit to do a  
18 cranberry operation and the other was -- and these  
19 were out of the blue. They approached us prior to --  
20 there have been a couple three occasions we have been  
21 approached by folks wanting to do something and they  
22 wanted to get our viewpoint before they ever took.  
23 It was incredibly helpful.

24 They took the initiative. I think  
25 Greer was saying some do and some don't and it's  
1 difference for each one, but it was very helpful. We 456  
2 very much appreciated it, and I think it made for a  
3 more successful project.

4 MS. MILES MENNELL: I think that's  
5 common courtesy and I think that's common sense, but  
6 I don't know that, again, it's a practical issue for

7 something you can enforce. You would hope that as a  
8 best practice or sound business practice that that's  
9 what anyone would do prior to initiating or trying to  
10 initiate a project or a change in the use of land.

11 FACILITATOR DAVE WAHUS: Jim.

12 MR. JIM FYKE: I guess I would just --  
13 Miles made my point. I think it is good common  
14 sense, but to think that a developer who is going to  
15 be -- his mind is going to be changed by some  
16 negative rather than getting enough support, I am not  
17 sure what value it has to TVA in the long run.

18 It makes good public relation sense,  
19 but my experience has been that it would be slanted  
20 to -- he or she would find the most positive people  
21 and comments coming to TVA. So I don't think it  
22 changes what they will have to do eventually anyway,  
23 I guess, is my point.

24 FACILITATOR DAVE WAHUS: Okay. This  
25 comment, see No. 5, encourage regional, local and  
1 public support before submission to TVA, is that 457  
2 comment and the one right before it, are they one in  
3 the same or are they closely related or just two  
4 different comments relating to the same subject about  
5 public -- getting the public involved.

6 Greer.

7 MR. GREER TIDWELL: This is my  
8 problem.

9 CHAIRMAN BRUCE SHUPP: That was  
10 changed to encourage.

11 FACILITATOR DAVE WAHUS: We changed  
12 the word down below to encourage. One in the same or  
13 two different comments?

14 CHAIRMAN BRUCE SHUPP: One in the  
15 same.

16 FACILITATOR DAVE WAHUS: Let's take  
17 the one and move it out and continue that.

18 Any other comments in relation to  
19 that?

20 Okay. If a local land use or zoning  
21 plan is not in place, TVA should not entertain a  
22 proposal for off-cycle changes. Have an exception to  
23 policy. Some way it's too restrictive. Should that  
24 stay in or go out? In? Out? I see one out, two,  
25 three, four, okay, let's take that one out.

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1 And the question, can these criteria  
2 be clustered under guiding principles, and that was  
3 the point being made earlier by Mike and that's  
4 basically a question.

5 MR. MIKE BUTLER: One of the GQ.

6 FACILITATOR DAVE WAHUS: Miles.

7 MS. MILES MENNELL: I want to come  
8 back briefly to the one we just took out, the zoning  
9 issue. No. No. It's cool. I think that raises an  
10 interesting issue.

11 I mean, it would be -- the idea would  
12 be for all of these local governments to have zoning  
13 plans in place. I don't know that TVA is the agency  
14 to enforce that and I don't think that's at all  
15 practical, but I think it raises an interesting  
16 issue.

17 I don't know how we work that into the  
18 dialogue because I think that would be a really great  
19 result of all of this, but I don't know that TVA is  
20 the appropriate authority for it.

21 FACILITATOR DAVE WAHUS: I don't know  
22 which one. Rosemary.

23 MS. ROSEMARY WILLIAMS: I agree with  
24 Miles. I wonder if that would help if we could use  
25 the word encourage the zoning, because so many  
1 counties need it but sometimes it's not politically  
2 the thing to do in that particular county, but if it  
3 could be encouraged by groups like TVA I think it

4 would be more likely to happen at some point.

5 FACILITATOR DAVE WAHUS: Put it under  
6 general comments, I guess.

7 Greer.

8 MR. GREER TIDWELL: And the way I had  
9 proposed that in the stark language that we used  
10 really wasn't so much to have TVA enforcing anything,  
11 but to say that in this plus and minus checklist  
12 here, if you're going into a county that has zoning  
13 and you're consistent with the zoning you get a plus.

14 If you're going into a county that  
15 doesn't have zoning, it's kind of a negative because  
16 you don't have anything to work against in terms of  
17 the local decision process on what's good and bad for  
18 land use.

19 So it's a -- you know, it's an extra  
20 burden to get this interim change to happen, that  
21 would be my recommendation to the Authority is to  
22 have -- if I can think of the right language for it  
23 now.

24 FACILITATOR DAVE WAHUS: Do you wish  
25 to continue?

1 MR. GREER TIDWELL: Try this language  
2 out. If there's not a local zoning or land use plan

3 in place, then the Authority is disinclined to do the  
4 off-cycle land use change. It means it's a negative  
5 instead of a positive.

6 CHAIRMAN BRUCE SHUPP: Isn't that what  
7 we said would preclude development in 93 percent of  
8 the region?

9 MR. GREER TIDWELL: Or it might  
10 actually encourage land use plans in some more  
11 regions to realize that they have got a negative on  
12 this chart for the use of TVA land outside of the  
13 normal planning cycle.

14 FACILITATOR DAVE WAHUS: Before I ask  
15 others to comment on your proposal, should this be  
16 under this category or should this question or should  
17 it be a general question category that we have  
18 created?

19 MR. GREER TIDWELL: Where are we?  
20 Which number?

21 FACILITATOR DAVE WAHUS: Right now  
22 we're near the bottom of question No. 3, but we have  
23 identified a couple of these items that are in --  
24 under question No. 3 that should go under a general  
25 comment classification.

1 And the question I'm asking you,

2       should it stay under No. 3 or a general comment?

3                       MR. GREER TIDWELL: I think it's a No.

4       3. It's think it's a criteria issue.

5                       FACILITATOR DAVE WAHUS: I just wanted  
6       to make sure I understood.

7                       Miles, you had yours up and then Ken.

8                       MS. MILES MENNELL: Well, I would  
9       suggest that it be just a general comment and  
10      something that we noted, but I would also say that as  
11      another general comment that we encourage the use of  
12      best practices, almost like the three star program  
13      that they have in place Tennessee using multi county  
14      and multi local government cooperation, and there's a  
15      whole series of criteria which are all best practices  
16      that these local governments needs to meet.

17                      I think they are all things to be  
18      aspired to, but again, I would reiterate that I am  
19      not sure that TVA -- they can say, guys, here are the  
20      things -- because they a lot of quality planning and  
21      working with local communities, and these would be  
22      things I am sure they already do encourage, not --  
23      not river operations necessarily but other parts of  
24      TVA, but I don't know that it belongs here as a  
25      criteria, but I certainly think these are things that

1       should be encouraged throughout.

2                   MR. KENNETH DARNELL:   While we're  
3       speaking in generalities, could we just say, give  
4       preference to applicants and counties where a plan is  
5       in place?

6                   MR. GREER TIDWELL:   Positive --

7                   MR. TOM LITTLEPAGE:   I like that  
8       better.

9                   FACILITATOR DAVE WAHUS:   So let's  
10      change that one.   Give preference to those requests  
11      in areas where land use plans exist.

12                  CHAIRMAN BRUCE SHUPP:   What does  
13      preference mean?

14                  MR. GREER TIDWELL:   There you go  
15      again.

16                  MR. TOM LITTLEPAGE:   As I said, I'm  
17      speaking in generalities.

18                  CHAIRMAN BRUCE SHUPP:   You still have  
19      to go through the whole NEPA process, the whole  
20      review process.   So preference for what?

21                  MS. MILES MENNELL:   Nothing.

22                  MR. TOM LITTLEPAGE:   For proceeding  
23      on.

24                  FACILITATOR DAVE WAHUS:   Let's see if

25 Jim has an answer.

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1 MR. JIM JARED: If you have that in  
2 there, it seems to me it's a curtailment to economic  
3 development in areas that need it. And again, I  
4 think if you refer to zoning it's too restrictive.  
5 As development comes I think zoning will itself come.

6 So much of the area where I live is so  
7 rural, I mean, even -- you know, they want new  
8 development and they want factories to come in, but  
9 if you mention zoning you might as well get behind a  
10 rock because they are going to start firing at you.

11 FACILITATOR DAVE WAHUS: Austin.

12 MR. AUSTIN CARROLL: I think give  
13 preference is too nebulous. I mean, that implies you  
14 have got a stack of them and you're going to take  
15 this one over this one because of that, and I don't  
16 know if that make senses to have that.

17 MR. GREER TIDWELL: There's not a --

18 FACILITATOR DAVE WAHUS: I think a  
19 bright light just lit up over Mike's head here or  
20 maybe it was the shine off of Jimmy's.

21 MR. MIKE BUTLER: As much as I agree  
22 with what Greer is trying to get at, I think it is  
23 difficult to get around that concept with the purpose

24 of these questions and a guideline policy. I just --  
25 I don't -- it's not clear to me that you can quantify  
1 it enough to make it useful, that's the difficulty I<sup>464</sup>  
2 am having.

3 CHAIRMAN BRUCE SHUPP: Call for the  
4 question.

5 FACILITATOR DAVE WAHUS: What do you  
6 want to do, leave it in or take that out?

7 MR. TOM LITTLEPAGE: Is there an  
8 alternative to move it to the GQ?

9 MR. MIKE BUTLER: It would be a great  
10 comment.

11 FACILITATOR DAVE WAHUS: If you want  
12 to put it in GQ, then go sideways. I see about two  
13 to take it out and the rest are move it to GQ. So  
14 let's move that item to GQ. At least you made a  
15 decision.

16 MR. MIKE BUTLER: I feel like the  
17 Roman Emperor.

18 CHAIRMAN BRUCE SHUPP: That's that  
19 what you're supposed to feel like.

20 FACILITATOR DAVE WAHUS: In reference  
21 to No. 4, you said, publicly vet the guidelines to  
22 provide TVA with general protection and allow

23 flexibility for the organization while protecting the  
24 public trust.

25 Keeping the same lines, do you want to  
1 put that to GQ? Do you want to leave it here? Do  
2 you want to take it out? What do you want to do?

3 CHAIRMAN BRUCE SHUPP: Dr. Jackson  
4 said that we probably did enough combing of the first  
5 one and the other ones are combed enough. So we  
6 probably have our job done.

7 FACILITATOR DAVE WAHUS: Does anyone  
8 disagree with that? It's your meeting.

9 Austin.

10 MR. AUSTIN CARROLL: Just a comment,  
11 and maybe the comment ought to be a GQ, but I know  
12 they said something about this to Kate, but with  
13 these criteria being as subjective as they are, you  
14 put them out there to the public and then the public  
15 is going to expect you to follow it and then -- but  
16 it's so subjective it just seems like it could get  
17 you into legal problems because it's your opinion  
18 against the developer's opinion and the first thing  
19 you know you get drug into a court situation.

20 FACILITATOR DAVE WAHUS: So these  
21 criteria are very subjective and could get you into

22 trouble.

23 Mike.

24 MR. MIKE BUTLER: Austin, I think the  
25 more dangerous position would be to put these 466  
1 guidelines out without having them go through some  
2 sort of minimal NEPA process because I think it will  
3 create public decision.

4 If I know -- and counsel might be able  
5 to clarify this, but my fear would be to put the  
6 guidelines out without running them through some sort  
7 of NEPA process opens up TVA to be filed suit against  
8 for the purpose of having made a federal decision and  
9 not followed NEPA, because NEPA is required for any  
10 federal decisions.

11 And I'm not an attorney by any stretch  
12 of the imagination, but because of the subjectiveness  
13 of those guidelines that would be the argument that I  
14 would use for the reason to go do a NEPA approved  
15 process, whether it be just an announcement, taking  
16 comments and approve it and get on with it, that's  
17 what I was getting at.

18 MR. AUSTIN CARROLL: When you -- are  
19 you talking about going through a NEPA approved  
20 process to develop these criteria --

21 MR. MIKE BUTLER: I would argue --

22 MR. AUSTIN CARROLL: To get public  
23 comment on these things?

24 MR. MIKE BUTLER: Yes.

25 MR. AUSTIN CARROLL: All right. Even 467  
1 after you get public comment, I still think they are  
2 very subjective.

3 MR. MIKE BUTLER: But you're  
4 protected. Even though they're subjective, you're  
5 protected by people -- where the grist is going to  
6 hit is where the vulnerability to any federal agency  
7 is if they make a decision and they don't follow the  
8 National Environmental Policy Act.

9 This could be perceived as making a  
10 decision -- or it will be perceived as making a  
11 decision on how the Agency is going to handle  
12 off-cycle requests. If somebody were to challenge  
13 that and these things aren't put through that NEPA  
14 process, my understanding is that's a pretty strong  
15 case that could be taken -- to ball this whole thing  
16 up to where we wouldn't get anything out of it. I  
17 would be curious to know what Barry's thoughts would  
18 be.

19 FACILITATOR DAVE WAHUS: Austin, did

20     you have anything else?

21                     Barry or if you don't want --

22                     MR. BARRY WALTON:  Let me just say in  
23     the classic sense NEPA applies to proposals for  
24     action, and backing off of that it would apply to a  
25     policy, the adoption of a policy that governs your  
1     actions. 468

2                     Now, when you start talking about  
3     guidelines you're really in a whole continuum between  
4     something that would just be almost an internal  
5     administrative thing versus something that governs  
6     actions.

7                     And, you know, I think at this  
8     point -- well, certainly I have to withhold my advice  
9     anyway because I need to get with Dr. Jackson, not to  
10    this Council initially, but let me say I think  
11    there's a whole -- there's a lot of flexibility in  
12    how we need to look at these guidelines and then  
13    figure out how we're going to use them and then see  
14    the best approach to bring NEPA into it or to decide  
15    that NEPA is at a later stage, but that's separate  
16    from the question of whether we go out to the public  
17    or not have public involvement.  I think that would  
18    be purely a policy issue.

19 Does that help?

20 MR. AUSTIN CARROLL: That helps.

21 MR. MIKE BUTLER: If you remember what  
22 Mr. Arndt said from the Forest Service yesterday,  
23 they had to go develop a specific categorical  
24 exclusion for their plans. Now, their plans are just  
25 strategies now. They don't talk about on-the-ground  
1 actions as much. They talk about desired future 469  
2 conditions, and they are much more amorphous and less  
3 specific than they used to be. Yet, they felt it  
4 important enough that they went and created a whole  
5 new federal categorical exclusion just for their  
6 plans.

7 So I will to defer Barry's legal  
8 wisdom, because he is an attorney and I am not, but I  
9 still think -- I know that I can tell you this, that  
10 a decision by a federal agency not too long ago where  
11 they actually made a decision by not doing an action  
12 was considered an action. So it's all -- I won't go  
13 any further into that.

14 It just seems like it would provide --  
15 TVA is very good at doing NEPA. They are very good  
16 at going through that public process. I would  
17 just -- I think -- I would like to see y'all have the

18 shield of that around the guidelines so that people  
19 can't monkey with it very easily, because we're  
20 putting a lot of effort and work into coming up with  
21 something that we think is going to work among a  
22 diverse group of stakeholders.

23 And to be able to protect that work,  
24 like we did with the shoreline management initiative,  
25 the protection of that is that public process that it  
1 went through, because it's not easy. 470

2 But with that, Barry made a point, and  
3 that's different from -- you can public vet them  
4 without going through NEPA, that's for sure. I just  
5 think that it gets a little bit -- it could get more  
6 difficult.

7 FACILITATOR DAVE WAHUS: We have added  
8 two more bullets to this one as a result of your  
9 comments.

10 One is putting the guidelines out  
11 without following the NEPA process would open TVA to  
12 criticism. Before we go to the second one, do you  
13 want to leave that in? Do you want to take it out?  
14 Do you want to put it to GQ? What do you want to do?  
15 I see a GQ. I see a take out. Hold it up there.

16 MR. GREER TIDWELL: A change in

17 following the NEPA process should fall into seeking  
18 public vetting.

19 FACILITATOR DAVE WAHUS: Following the  
20 guidelines without seeking public vetting would open  
21 TVA to criticism and take the words "the NEPA  
22 process" out.

23 Bruce.

24 CHAIRMAN BRUCE SHUPP: The other thing  
25 would be, do we want to put that as a statement or  
1 change it to a question for them to consider. 471

2 MR. JIMMY BARNETT: Make it a question  
3 and put it under GQ.

4 CHAIRMAN BRUCE SHUPP: That's what I  
5 think.

6 FACILITATOR DAVE WAHUS: Everybody  
7 agrees with GQ.

8 CHAIRMAN BRUCE SHUPP: Put the word  
9 would in.

10 FACILITATOR DAVE WAHUS: Put the word  
11 would and let's make that GQ.

12 CHAIRMAN BRUCE SHUPP: Why not lump  
13 the two bullets, the second and third bullets? It's  
14 the same thought.

15 FACILITATOR DAVE WAHUS: Let's lump

16 the two together. Now, does everyone agree that that  
17 should go to a GQ?

18 CHAIRMAN BRUCE SHUPP: Yep.

19 FACILITATOR DAVE WAHUS: Anybody  
20 disagree?

21 MR. JIMMY BARNETT: Well, you need to  
22 change the wording in that next to the last sentence,  
23 instead of say they will expect, they might.

24 CHAIRMAN BRUCE SHUPP: Possibly.

25 FACILITATOR DAVE WAHUS: Any other  
1 changes? Okay. Okay. You have -- I don't think 472  
2 there's much to review back in 1 and 2. So let's --  
3 we have already given Austin an opportunity to make  
4 his last comment.

5 Mike.

6 MR. MIKE BUTLER: No.

7 FACILITATOR DAVE WAHUS: Jimmy.

8 MR. JIMMY BARNETT: No.

9 MS. ROSEMARY WILLIAMS: I would like  
10 to say this has been a real learning experience for  
11 me to find out what this process is all about. Thank  
12 goodness for my neighbor Greer here, I have learned  
13 what ROS and NEPA mean.

14 I do want to make a comment to say

15     that I think the protection of our cultural and  
16     natural resources owned by TVA are extremely  
17     important and that we should watch out for  
18     overdevelopment in some areas.

19                     FACILITATOR DAVE WAHUS:   Thank you.

20                     MR. GREER TIDWELL:   I would like to  
21     see at our next meeting some time spent educating us  
22     on what TVA has done or is planning to do on  
23     transmission right of way land management because we  
24     have got 5 or 30 of these a year coming through in  
25     terms of these land management issues, and I suspect  
1     that there's a lot more public interaction on what<sup>473</sup>  
2     happens to transmission right of ways.

3                     I know that TVA has done a lot of work  
4     to initiate good programs, and it might help us  
5     understand how the whole system fits together to hear  
6     some more of that and know where you're going with  
7     right-of-way management.

8                     DR. KATE JACKSON:   Let me respond to  
9     that.   My suggestion would be if there are some  
10    Council members who are interested in that, I would  
11    prefer just to do that as a courtesy meeting because  
12    right of way is not inside your Charter.   That's  
13    power land.   It's power management.   That's not

14 considered stewardship.

15 We did talk about some of the  
16 indigenous species management, things like that last  
17 time, because they were so similar and there was so  
18 much overlap to the things we do on the stewardship  
19 land, but I really think that's kind of a fringe  
20 issue -- not that that's not important, but a fringe  
21 issue from the standpoint of the Council. We would  
22 be more than happy to sit and talk with you about  
23 those issues.

24 MR. GREER TIDWELL: I think as long as  
25 the TVA Board sees those as fringe issues in  
1 reference to how the public perceives them as a land <sup>474</sup>  
2 manager, they will continue to be distrusted no  
3 matter what we do in this arena.

4 DR. KATE JACKSON: I am not saying  
5 it's a fringe issue to the Agency. I am saying it's  
6 not in your Charter.

7 MR. PHIL COMER: In this Council.

8 DR. KATE JACKSON: I am more than  
9 happy to talk about it and we know they are  
10 critically important issues.

11 CHAIRMAN BRUCE SHUPP: We spent four  
12 hours last night telling folks exactly how to do

13       that.

14                       FACILITATOR DAVE WAHUS:   And Skila was  
15       part of that discussion as well.

16                       DR. KATE JACKSON:   I don't mean to  
17       minimize the importance of it, Greer.

18                       FACILITATOR DAVE WAHUS:   Phil.

19                       MR. PHIL COMER:   I have two comments  
20       to make.   They are really one in the same comment,  
21       but -- and I am very serious about this, Kate.   I  
22       really think at our next meeting in July, not waiting  
23       until the January meeting, that not only my friend,  
24       Nelson Ross has on three occasions offered now to put  
25       on a 15 to 20 minute power demonstration of his  
1       interest in clean water and what he is doing in the <sup>475</sup>  
2       Knoxville riverfront area.

3                       My new dearest friend, David Monteith,  
4       I like him more than I really realized, he called me  
5       out in the hall as he was leaving to go back two and  
6       a half hours to do his afternoon bus trip and he  
7       said, do you think there's any chance that they would  
8       have me back sometime at their next meeting because I  
9       have in existence a 20 minute PowerPoint program I  
10       would like to put on to this Council that I am  
11       putting on in the school systems in Western North

12 Carolina to show how we have worked with TVA in this  
13 whole water quality thing that he referred to here  
14 today on Fontana Lake?

15 And I think most of these  
16 presentations are worth doing because here we have  
17 two very dedicated entities. One represented by  
18 Nelson here on the Tennessee waterfront. Many of you  
19 don't realize this, but he devotes full-time with a  
20 full-time volunteer staff with paid seven people to  
21 keep two and a half miles of the Knoxville waterfront  
22 clean. I think it's worth 15 minutes of our time to  
23 hear him speak on this subject, and my new dearest  
24 friend, David, the same thing on Fontana.

25 So I would like to recommend that you  
1 consider working that in somehow because we keep <sup>476</sup>  
2 putting these people off, particularly Nelson, and I  
3 think we should hear them.

4 FACILITATOR DAVE WAHUS: Thank you,  
5 Phil.

6 Joe.

7 MR. JOE SATTERFIELD: I'm good.

8 FACILITATOR DAVE WAHUS: Miles.

9 MS. MILES MENNELL: No.

10 FACILITATOR DAVE WAHUS: Kenneth.

11 MR. KENNETH DARNELL: I just want to  
12 thank everyone. I have enjoyed this and enjoyed  
13 meeting everyone. This is going to be an exciting  
14 term. It's been great.

15 FACILITATOR DAVE WAHUS: Tom.

16 MR. TOM LITTLEPAGE: Ditto. I echo  
17 what Kenneth and Rosemary said.

18 FACILITATOR DAVE WAHUS: Bill.

19 MR. BILL FORSYTH: No comment.

20 FACILITATOR DAVE WAHUS: Jim.

21 MR. JIM JARED: No.

22 FACILITATOR DAVE WAHUS: Jim.

23 MR. JIM FYKE: No.

24 FACILITATOR DAVE WAHUS: It's really

25 confusing when you have got two Jims sitting

1 together, confusing for me.

2 Is there any other member of the board  
3 who has not had their final comments before I turn it  
4 over to the Chairman?

5 Bruce, would you like to have anything  
6 to say?

7 CHAIRMAN BRUCE SHUPP: I would like to  
8 comment that I think the contribution of our new  
9 members was outstanding. I expected that when I saw

10 the names and you certainly all were pitching right  
11 in, and we really appreciate that. Of course, the  
12 old council members are always appreciative. Thank  
13 you for your participation, and I hope we helped you  
14 with some of the guidelines.

15 FACILITATOR DAVE WAHUS: One other  
16 thing, I would like you help me thank Catherine  
17 Mackey for her work on the computer.

18 Mr. Chairman, you have the  
19 recommendations from the Board and I will turn it  
20 back to you.

21 CHAIRMAN BRUCE SHUPP: We have the  
22 recommendations and we will turn them over to TVA.  
23 And the next step on our agenda is to decide on the  
24 next two meetings, correct?

25 DR. KATE JACKSON: That's right. 478  
1 There's a tab in your book called meeting dates.

2 MS. MILES MENNELL: I think I have a  
3 conflict in January. I think that's my annual  
4 planning meeting, but I don't have those dates with  
5 me.

6 MR. PHIL COMER: We always miss you at  
7 that meeting, Miles. You ought to change your  
8 planning meeting if you want to be with us.

9 MS. MILES MENNELL: Kate, I will find  
10 out and let you know this afternoon.

11 DR. KATE JACKSON: Okay.

12 MR. PHIL COMER: I think school will  
13 be out in July and Mr. Monteith would come across --

14 DR. KATE JACKSON: Okay. Our  
15 facilitator is unavailable the month of July.

16 FACILITATOR DAVE WAHUS: Boy Scout  
17 Jamboree.

18 DR. KATE JACKSON: Are you going to  
19 paint birdhouses?

20 FACILITATOR DAVE WAHUS: You bet.

21 DR. KATE JACKSON: Then the suggestion  
22 was made to do something earlier than the end of  
23 January. So I guess what we are going to be  
24 relegated to do is send out dates, and Sandy is not  
25 in here to moan with exhaustion, but we will exercise  
1 her and her schedule. 479

2 MS. MILES MENNELL: So these dates are  
3 not good?

4 DR. KATE JACKSON: Apparently, these  
5 dates aren't as good as we hoped they would be.

6 CHAIRMAN BRUCE SHUPP: I had no  
7 problem with the January date. I was just

8       questioning why we waited until January.

9                   DR. KATE JACKSON:   Well, we tried to  
10       put it where Miles couldn't come.

11                   MS. MILES MENNELL:   Yes, thank you.

12                   MR. PHIL COMER:    You'd be amazed how  
13       better the meeting goes when she's not here.

14                   MS. MILES MENNELL:   Now, Phil.   Phil,  
15       we swore an oath not to do that anymore.

16                   MR. PHIL COMER:    Okay.

17                   CHAIRMAN BRUCE SHUPP:   Are we going to  
18       continue in Knoxville as our target?

19                   DR. KATE JACKSON:   Yes.

20                   MR. PHIL COMER:    Yes.   And box lunches  
21       for both meals, yesterday and today.

22                   CHAIRMAN BRUCE SHUPP:   Both meals?

23                   MR. PHIL COMER:    Yesterday and today.

24                   DR. KATE JACKSON:   Box lunches are, in  
25       fact, available.

1                   CHAIRMAN BRUCE SHUPP:   So we haven't<sup>480</sup>  
2       decided anything.   We're going to have a ballot.  
3       Kate, we're going to have a ballot for dates coming  
4       to us, is that the --

5                   DR. KATE JACKSON:   Yes.

6                   CHAIRMAN BRUCE SHUPP:   Dave has an

7 announcement first.

8 FACILITATOR DAVE WAHUS: One  
9 administrative announcement, if you would all take  
10 your name tags off and put them on the table in front  
11 of you, that way you will have them at the next  
12 meeting. Whereas, if you take them home, you may  
13 not.

14 Thank you.

15 CHAIRMAN BRUCE SHUPP: Any other  
16 business before we adjourn?

17 We're adjourned. Thank you.

18 END OF MEETING

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1 REPORTER'S CERTIFICATE

2

STATE OF TENNESSEE )  
3 : SS.  
COUNTY OF KNOX )

4

5 I, Kimberly J. Nixon, RPR, the officer

6 before whom the foregoing meeting was taken, do  
hereby certify that the transcript was taken by me in  
7 machine shorthand, and thereafter reduced to  
typewriting by me;

8 That the transcript was prepared under my  
supervision, and attached to this certificate is a  
9 true, accurate and complete transcript, as provided  
by law;

10 That I am neither counsel for, related to,  
11 nor employed by any of the parties to this action;  
and I further certify that I am not a relative or  
12 employee of any attorney or counsel employed by the  
parties hereto, nor financially or otherwise  
13 interested in the outcome of this action; and that  
the foregoing transcript is complete and accurate in  
14 all particulars, as provided by law.

15 In witness whereof, I have hereunto set my  
hand this 17th day of May, 2005.

16  
17  
18  
19  
20 KIMBERLY J. NIXON, RPR  
Notary Public at Large. My  
commission expires April 26, 2008.  
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